3477

SUPREME COURT OF THE UNITED STATES.

No. 249.

JAMES B. WOODS, JOHN J. ROE, WILLIAM H. SCUDDER, AND WILLIAM J. LEWIS, Owners of the Steamboat Falls City, Plaintiffs in Error,

vs.

JAMES SHARRON.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Transcript from State Court, filed 1st Nov., 1858	1	3
" petition	1	3
" affidavit to petition	6	5
" order on petition and bond	7	5
" writ of attachment	9	6
" sheriff's return on writ	10	6
" notice of seizure and return on do.	12	7
" advertisements	13	7
" bond for release of boat	15	8
" transfer of bond to the plaintiff	17	9
" petition for transfer of cause to U. S. Court	17	9
" affidavit to petition	20	10
" order for removal of cause	22 and 23	11
" bond for removal of cause	23	11
" order rescinding order for removal	26	12
" return on service of rule	27	12
" order fixing rule for trial	27	12
" " " and notice	28	13
" answer, in form of protest	29	13
" order transferring cause	30	14
" clerk's certificate to transcript	31	14

appellants, v. Wyant—and for that purpose the record of Gridley and others v. Wyant is admitted to be a part of the record in this cause.

Jan., 1859.

JAMES GRANT,
For Appellants.
BARKER & McKINLAY,
For Appellee.

Filed 30 June, 1859.

3477

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Transcript from State Court, filed 1st Nov., 1858	1	3
" petition	1	3
" affidavit to petition	6	5
" order on petition and bond	7	5
" writ of attachment	9	6
" sheriff's return on writ	10	6
" notice of seizure and return on do.	12	7
" advertisements	13	7
" bond for release of boat	15	8
" transfer of bond to the plaintiff	17	9
" petition for transfer of cause to U. S. Court	17	9
" affidavit to petition	20	10
" order for removal of cause	22 and 23	11
" bond for removal of cause	23	11
" order rescinding order for removal	26	12
" return on service of rule	27	12
" order fixing rule for trial	27	12
" " " and notice	28	13
" answer, in form of protest	29	13
" order transferring cause	30	14
" clerk's certificate to transcript	31	14

PROCEEDINGS IN U. S. CIRCUIT COURT.

	Original.	Print.
Exception and answer	34	15
Trial of cause	38	16
" and continuance	40	17
" and verdict	41	17
Defendant's bill of exceptions	42	17
" " " deposition of R. W. Jones	53	21
" " " " H. W. Barron	59	22
" " " " I. Stinson	62	23
" " " " W. Dewey	68	25
" " " " I. C. Cable	85	30
" " " " W. W. Bebee	90	31
" " " interrogatories to Gaty, Howe and Collins	95	32
" " " deposition of Sam'l Gaty, & schedule	98	33, 34
" " " " Amos Howe, & schedule	103	35, 36
" " " " James Collins	107	36
" " " interrogatories to Renfrow & Crozier	110	37
" " " deposition of Jno. Renfrow	114	38
" " " " Alex'r Crozier	221	40
" " " interrogatories to T. R. Packard	125	41
" " " deposition of T. R. Packard	132	43
" " " interrogatories to Jas. H. McCord	139	45
" " " deposition of J. H. McCord	149	48
" " " exhibit annexed C	143	46
Final judgment	154	50
Rule for new trial	155	50
Grounds for new trial	156	50
Trial and submission on rule	157	51
Order refusing new trial	158	51
Petition for writ of error	159	51
Order allowing writ of error	160	52
Bond for writ of error	161	52
Clerk's certificate	164	53
Writ of error	165	53
Citation and service	166	54

Transcript from State Court.

Filed 1st November, 1858.

State of Louisiana, Second District Court of New Orleans.

JAMES SHARRON
vs.
The Steamboat FALLS CITY. } No. 14,512.

Petition.

Filed September 8th, 1858.

To the Honorable the Judge of the Second District Court of New Orleans.

The petition of James Sharron, a resident of the city of New Orleans, respectfully shows:—

That the steamboat Falls City, employed in carrying freight and passengers for hire on the Mississippi River between the cities of New Orleans and St. Louis, whose owners reside in the State of Missouri, and are absent from the State of Louisiana, is indebted unto your petitioner in the sum of ten thousand dollars, with legal interest, for this, to wit:—

That on the 14th of April, 1858, at about 5 o'clock P. M., the steamboat John Simonds, upon which your petitioner was employed as chief cook, left the wharf at the foot of Girod Street in this city for a voyage to the city of Memphis, and proceeded up the river to the foot of Washington Street in this city, and there made a landing: that on the evening of the same day, and at about the same time, the steamer Falls City left the port of New Orleans for the city of Saint Louis, in the State of Missouri, and proceeded up the river, with an extraordinary, dangerous, and alarming rapidity; that whilst the steamboat John Simonds was made fast at the landing, the steamboat Falls City, when immediately opposite the steamboat John Simonds and close to her, burst the steam drum of her seven boilers, and blew the head thereof through the wood work of the steamboat John Simonds, causing the great damage, killing six persons, striking your petitioner and inflicting upon him a compound comminuted fracture of the bones of the left leg, and otherwise did horribly hurt, bruise, wound, and mangle, maim, cripple, and disable your petitioner.

That your petitioner procured as promptly as possible the best medical and surgical aid, and was nursed with great care and solicitude, but notwithstanding has undergone and suffered great pain, torture, and anguish of body and mind, and still continues to suffer the same; that he was confined to his bed for four months, and is

now incapable of using his fractured and mangled limb, is in a state of mutilation and comparative helplessness—a cripple, and perhaps unable ever to use his limb and follow his usual occupation.

That he has been compelled to lay out and expend a large sum of money, to wit, the sum of $1000, and will be compelled for the next twelve months to lay out and expend the further sum of $1500, in procuring medical and surgical aid and necessary attendance.

That he was getting a salary at the time of the injury of $75 per month, and made by perquisites and trading from port to port the further sum of $75, in all $150 per month; that since the 14th April last, and for the next eight months your petitioner will not be able to earn any wages, and feels doubtful whether he will ever again be able to follow his usual occupation. His life will be unhappy, his body mutilated, and himself comparatively helpless.

Your petitioner shows that the explosion and the injuries to your petitioner were caused through the carelessness, recklessness, unskilfulness, and misconduct of Wm. H. Scudder, master, of T. A. Packard, chief engineer of said boat, and of Wm. H. Scudder, John J. Roe, Henry W. Smith, and the Illinois Central Railroad Company, a corporation established by the laws of the State of Illinois, owners of said steamboat "Falls City," in carrying at the time of the explosion more steam than was allowed by law, and more than the strength of the engine boilers and steam drum would authorize, and in using on said boat boilers a steam drum made of unwarrantable, unfit, bad and defective material, and unfit for the purposes intended, and dangerous to life.

Your petitioner shows that the W. H. Scudder and others might have prevented the wrongs and injuries herein set forth, if they had had boilers and a steam drum constructed of good and proper materials, and if the owners of said boat had employed skilful, prudent, and trustworthy servants and agents.

That by the wrongs and injuries herein set forth your petitioner has suffered damages to the amount of ten thousand dollars, for the payment of which petitioner has a lien and privilege on the steamboat Falls City.

Wherefore your petitioner prays that the steamboat Falls City be seized and sold to satisfy your petitioner's claim, with costs of suit; that public notice be given to all persons interested to appear within fifteen days to answer to this petition; that after legal proceedings that judgment be rendered in favor of your petitioner, and against the steamboat Falls City for ten thousand dollars and costs, with interest from judicial demand, with privilege according to law on said boat, and on the proceeds of the sale thereof; petitioner prays for trial by jury, and for general relief.

(Signed) GEORGE L. BRIGHT, Att'y.

Affidavit.

James Sharron being duly sworn, says: That all and singular the allegations contained in the foregoing petition are true.

(Signed) JAMES SHARRON.

Sworn to and subscribed before me Sept. 8th, 1858.

ARTHUR LANCIER, 3d J. P.

Order.

Let the sheriff of the parish of Orleans be ordered to seize and take in his possession the steamboat Falls City as prayed for herein, and let public notice be given to all persons interested to appear within fifteen days, to answer to this petition, and let the pl'ff be ordered to give bond in the sum of fifteen thousand dollars.

New Orleans, 8th September, 1858.

(Signed) LS. DUVIGNEAUD,
Judge 3d District Court, acting
in the absence of Judge Morgan.

Bond.

Filed 8th September, 1858.

Know all men by these presents, that we, James Sharron and Henry W. Long and G. F. Oldis, of the city of New Orleans, and State of Louisiana, are held and firmly bound unto the owners of the steamboat Falls City in the sum of fifteen thousand dollars, lawful money of the United States of America, to be paid to the said owners of the steamboat Falls City, their heirs, executors, administrators and assigns, for which payment well and truly to be made, we bind ourselves and each of us by himself, each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated the 8th day of September, in the year of our Lord 1858.

Whereas, James Sharron has this day presented a petition to the honorable the Second District Court of New Orleans, praying for proceedings in rem against the steamboat Falls City—

Now, the condition of the above obligation is, that we, the above-bound James Sharron, and H'y W. Long, and G. F. Oldis will well and truly pay to the said steamboat Falls City, and the owners thereof, defendant in said proceedings, all such damages as they may recover against us in case it should be decided that the seizure of said steamboat was wrongfully obtained.

(Signed) JAMES SHARRON, [L. S.]
" H. W. LONG, [L. S.]
" S. F. OLDIS, [L. S.]

Signed, sealed, and delivered in the presence of
(Signed) GEO. L. BRIGHT.

Writ in Rem.

JAMES SHARRON
vs.
The Steamboat FALLS CITY. } No. 14,512.

Second District Court of New Orleans, the State of Louisiana, to the Sheriff of the parish of Orleans, greeting:—

You are hereby commanded, in the name of the State of Louisiana, and of the Second District Court of New Orleans, to seize and take in your possession and safe-keeping the steamboat Falls City, her furniture, tackle, and apparel, to satisfy the plaintiff's claim, say $10,000, with interest, &c.; and you are hereby directed at the same time to give public notice to all persons interested to appear within fifteen days to answer the petition of the plaintiff, and in what manner you shall have executed this writ, you make return thereof to our said court, according to law.

Witness the Hon. P. H. Morgan, judge of our said court, at the city of New Orleans, this 8th day of September, in the year of our Lord eighteen hundred and fifty-eight, and in the 83d year of the Independence of the United States.

[SEAL.] (Signed) OCTAVE MOREL,
D'y Clerk.

Sheriff's Return.

Filed 1st October, 1858.

Rec'd, September 8th, 1858, and immediately seized provisionally and took into my possession and safe-keeping the steamboat Falls City, her tackle, apparel, furniture, machinery, &c.; and, pursuant to the within order, I gave public notice to all parties interested therein to appear within fifteen days from the date of the first notice given, and answer the petition filed in this case on the 9th day of September, 1858, in the following manner; to wit: By advertisements composed in English and French, said advertisements were inserted and published in English and French in one paper in the city of New Orleans, to wit: In the New Orleans Commercial Bulletin on the 9th, 13th, 14th, 18th, and 24th days of September, 1858, from the said 9th day of September, 1858, up to the 27th day of September, 1858, being full fifteen days from the date of the first notice given in said newspaper, as will more fully appear by reference to the printed extract herein. On the 10th September, 1858, said boat was bonded in the sum of fifteen thousand dollars, with Converse, Kennett, & Co., and Shaw & Zunts as securities. Claimants having obtained an order of court to bond said boat, said bond was returned into court on the 10th September, 1858. Returned October 1st, 1858.

(Signed) LOUIS J. HUARD, D'y Sh'ff.

Notice of Seizure, annexed to above Return.

JAS. SHARRON
vs.
The Steamboat FALLS CITY. } No. 14,512.

New Orleans, September 8th, 1858.

State of Louisiana, Sheriff's Office, Parish of Orleans.

In the 2d District Court of New Orleans.

To the captain and owners of the steamboat Falls City.

Please to take notice: That by virtue of a writ in rem, issued in the above mentioned suit, I have seized and taken into my possession the steamboat Falls City, with her tackle, apparel and furniture, &c.

(Signed) LOUIS J. HUARD, D'y Sheriff.

Sheriff's Return.

(To Notice of Seizure.)

On the 8th day of September, 1858, I served a copy of the within notice in the hands of the captain of the steamboat Falls City.

(Signed) A. FREDERICKS, D'y Sh'ff.

Advertisements.

Annexed to Sheriff's Return.

Sheriff's Office, Parish of Orleans.

New Orleans, September 9th, 1858.

2d District Court of New Orleans.

JAMES SHARRON
vs.
The Steamboat FALLS CITY. } No. 14,512.

By virtue of a writ of seizure in rem to me directed in the above entitled cause, I have seized and taken into my possession the steamboat Falls City, her tackle, apparel, furniture, machinery, &c., and I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having or pretending to have any right, title, or interest in or to the said steamboat Falls City, to be and appear, and file their answer before the Second District Court of New Orleans, within fifteen days from the date hereof, and show cause, if any they have, or can, why said steamboat Falls City, her tackle, apparel, machinery, furniture, etc., should not be sold to satisfy the claim of the pl'ff, and costs. (S. 13, 18, 23, 27.)

E. T. PARKER, Sheriff.

Bureau du Sheriff, Paroisse d'Orléans.

Nouvelle Orléans, le 9 de Septembre, 1853.

Deuxième Cour de District de la Nouvelle Orléans.

JAMES SHARRON
vs.
Le Vapeur FALLS CITY.

Avis est par le present donné qu'en vertu d'un writ, de raisie in rem à moi adressé dans l'affaire ci-dessus, j'ai saisé le et pris possession du vapeur Falls City, sa machine, ses meubles, etc.

Et toutes personnes intéressées ou qui prétendraient avoir droit au dit vapeur Falls City, sont notifieér d'avoir à comparaitre en la Deuxième Cour, de District de la Nouvelle Orléans, dans le quinze jours qui suivront la date au présent avis, et réspondre à la pétition enrêgistré dans la présentre affaire et déduire les raisons pour les quelles le dit vapeur Falls City, sa machine, ses meubles, etc., ne seraient pas vendu pour satisfaire la réclamation du demandeur, ainsi que les frais d'instance. (S. 9, 13, 18, 23, 27.)

E. T. PARKER, Sheriff.

Bond.

Filed 10th September, 1858.

Know all men, that we, the captain and owners of steamer Falls City, consisting of James B. Woods, master and part owner, William J. Lewis, John J. Roe, and William H. Scudder, the other owners as principals, and Shaw & Zuntz, and Convers, Kennett & Co., sureties:

Are held unto E. T. Parker, Sheriff of the Parish of Orleans, in the State of Louisiana, in the penal sum of fifteen thousand dollars ($15,000).

For the payment whereof to the said E. T. Parker, Sheriff, his executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, respectively by these presents.

As witness our respective names hereunto affixed, at New Orleans, this 10th day of September, in the year one thousand eight hundred and fifty-eight (1858.)

Whereas, in and by virtue of a writ in rem issued out of the honorable the Second District Court of New Orleans, at the suit of James Sharron *vs.* the Steamboat Falls City, and numbered 14,512 on the docket of the said court, and which suit is now pending therein; the following described property, to wit: The steamboat Falls City, her tackle, apparel, furniture, machinery, boilers, machinery, &c., has been seized, taken into the custody of the said sheriff, and detained according to law; but the same has been released, and the writ in rem thereon set aside, upon the appearance of the defendants and claimants in the said suit, and delivery to the said E. T. Parker, Sheriff, the present obligation.

The condition of which is such, that if the said defendants and claimants shall satisfy such judgment as may be rendered against them in the suit pending as above mentioned, then this obligation to be void, or else to remain in full force.

(Signed) JAMES B. WOODS,
Master and part owner, and for the said owners.

(Signed) CONVERS, KENNETT & CO.,
By H. S. BLOOD.

(Signed) SHAW & ZUNTZ,
Per M. J. ZUNTZ.

Signed and delivered in presence of
(Signed) J. P. WALDEN, D'y Sheriff.

New Orleans, September 10th, 1858.

I hereby transfer, assign, and set over to the plaintiff all my right, title, and interest in and to the within bond.

(Signed) Per E. T. PARKER, Sh'ff,
By J. P. WALDEN, D'y Sh'ff.

Petition.

Filed 10th September, 1858.

To the Hon. the Second District Court of New Orleans.

The petition of John J. Roe, William H. Scudder, William J. Lewis, and James B. Woods respectfully shows:—

That James Sharron has commenced a suit and proceedings in rem against the steamboat Falls City in this court, for the sum of ten thousand dollars and costs of suit, as will more fully appear by reference to the petition filed in this court by the said Sharron, and numbered on the docket 14,512.

That at the time of the commencement of the said suit and proceedings in rem against the said steamboat Falls City, petitioners were and continue to be the only owners of said boat, whose real name is New Falls City, that they are the true and bona fide owners of said boat, and that no other person is the owner thereof.

That the said Sharron has falsely alleged that Henry W. Smith and the Illinois Central Railroad Company and Z. A. Packard are part owners of said boat, and petitioners further allege that the said Smith, Illinois Central Railroad Company, and Packard have never been owners of said New Falls City.

That petitioners in these proceedings present themselves as claimants of said boat, and are the only defendants in the aforesaid cause.

That petitioners at the time of the commencement of said suit and proceedings in rem were and continue to be residents and citizens of the State of Missouri; and that said James Sharron, the pl'ff in said suit and proceedings, is and was at the commencement of said suit a resident and citizen of the State of Louisiana.

Petitioners desire to have the said cause and proceedings heard

and determined in the Federal tribunals, and to that end they are ready and willing, and offer now to give bond, with Hanibal L. Blood as their security, in the penal sum of one thousand dollars, which they pray the court to accept as sufficient surety, conditioned according to the laws of the United States of America in such cases made and provided.

Wherefore petitioners pray this court to order that said cause and proceedings in rem be removed for trial into the Circuit Court of the United States in and for the Fifth Judicial Circuit, holding sessions at the city of New Orleans, in and for the Eastern District of Louisiana, at the next ensuing November term, and the clerk of this court be ordered to furnish to petitioners the necessary copies to be filed in said Circuit Court, and as in duty bound.

(Signed) J. AD. ROZIER, Att'y of petitioners.

Affidavit.

James B. Woods, one of the petitioners, being duly sworn, says that all the allegations contained in the foregoing petition are true.

(Signed) JAMES B. WOODS.

Sworn to and subscribed before me, this 10th September, 1858.

(Signed) OCTAVE MOREL, D'y Clerk.

Affidavit.

Filed 10th September, 1858.

JAMES SHARRON
vs.
The Steamboat FALLS CITY.

Second District Court of New Orleans.

James B. Woods, being duly sworn, deposes and says, that the steamboat New Falls City, which has been seized and proceeded against in the above entitled suit and proceedings in rem under the name of Falls City, and now in the custody of the sheriff of the parish of Orleans, under a writ issued in said cause, at the time of said seizure was in the possession of affiant as master and part owner thereof; that at the time of the commencement of said suit and proceedings in rem against said boat, William J. Lewis, John J. Roe, William H. Scudder, and affiant, were, and continued to be, the only owners of said boat; that they are the true and bona fide owners of said boat, and that no other person is the owner thereof, and they now present themselves as claimants of said boat, and all said owners, with the exception of affiant, are out of the State of Louisiana, being residents and citizens of the State of Missouri.

(Signed) JAMES B. WOODS.

Sworn to and subscribed before me this 10th September, 1858.

(Signed) OCTAVE MOREL,
D'y Clerk.

Order.

Let this cause and the proceedings in rem be removed for trial into the Circuit Court of the United States, in and for the Fifth Judicial Circuit, holding sessions at the city of New Orleans, in and for the Eastern District of Louisiana, at the next ensuing November term, and let the clerk of this court be ordered to furnish to petitioners the necessary copies to be filed in said Circuit Court.

(Signed) LS. DUVIGNEAUD,
Judge 3d District Court,
Acting in the absence of Judge Morgan.

New Orleans, 10th September, 1858.

Order on Minutes.

Sept'r 10th, 1858.

JAMES SHARRON
vs.
The Steamboat FALLS CITY. } No. 14,512.

In this case the following entry was made by order of the court:

Let this cause and the proceedings in rem be removed for trial into the Circuit Court of the United States, in and for the Fifth Judicial Circuit, holding sessions at the city of New Orleans, in and for the Eastern District of Louisiana, at the next ensuing November term, and let the clerk of this court be ordered to furnish to petitioner the necessary copies to be filed in said Circuit Court.

Bond.

Filed 10th September, 1858.

Know all men by these presents, that we, John J. Roe, William H. Scudder, William J. Lewis, and James B. Woods, and Hanibal L. Blood, surety, are held and firmly bound unto James Sharron, his heirs, executors, and administrators, and assigns, in the penal sum of one thousand dollars, for the payment whereof we bind ourselves, our heirs, executors, and administrators firmly by these presents. Sealed with our seals, and dated in the city of New Orleans, on this 11th day of September, A. D. 1858.

Whereas the said Roe, Scudder, Lewis, and Woods, have this day filed and presented to the Second District Court of New Orleans a petition praying for the removal of a suit and proceeding in rem, against the steamboat Falls City, commenced in said court by James Sharron, a citizen of the State of Louisiana, against the Falls City, a steamboat, being a proceeding in rem, which suit is numbered on the docket of said court No. 14,512, and the said Roe, Scudder, and Lewis, and Woods, presenting themselves as claimants of said boat, they being the sole owners of said boat, and being defendants in said suit, and which petition prays for the removal of said cause into the Circuit Court of the United States, sitting in New Orleans,

in and for the Eastern District of Louisiana, in and for the Fifth Judicial Circuit, at the next ensuing term, November term.

Now the condition of said obligation is such, that if the said Roe, Scudder, Lewis and Woods, shall enter and file in said Circuit Court, sitting at New Orleans, in and for the Eastern District of Louisiana, on the first day of its next session, November term, copies of the proceedings and process in the aforesaid cause and proceedings in rem against the steamboat Falls City, and against them, and shall appear in the said Circuit Court, on said first day of the next ensuing November session of said court, and then and there except, plead, or demur in the above mentioned cause, in said court, then this obligation to be null and void, or else to remain in full force and effect.

(Signed) JOHN J. ROE,
WILLIAM J. LEWIS,
JAMES B. WOODS,
WILLIAM H. SCUDDER, [SEAL.]

By JAMES B. WOODS, [SEAL.]
HANIBAL L. BLOOD, [SEAL.]

Order Cancelling Order.

Entry on Minutes 11th Sept., 1858.

JAMES SHARRON vs. Steamboat FALLS CITY. } No. 14,512.

It is ordered that the order made this day, transferring this cause to the Circuit Court of the United States, be cancelled and set aside, and the defendants have leave to take a rule on the plaintiff to show cause why the case should not be transferred to the United States Circuit Court.

September 11th, 1858.

(Signed) L'S D.

Sheriff's Return.

Rec'd September 11th, 1858. On the same day I served a copy of the within rule on Rozier, Esq., attorney herein, personally. Returned same day.

(Signed) GEO. K. ROGERS, D'y Sheriff.

Order Fixing Application.

Entry on Minutes Octb'r 9th, 1858.

JAMES SHARRON vs. Steamboat FALLS CITY. } No. 14,512.

The court this day orders that the application of the parties for the removal of this cause to the Circuit Court of the United States, be fixed for trial for Tuesday, the 19th instant, at 10 A. M.

Sheriff's Return.

Filed 12th October, 1858.

Rec'd October 9th, 1858, and on the same day I served a copy of within notice of trial on Messrs. Rozier.

Order Fixing Application.

Entry on Minutes October 21st, 1858.

JAMES SHARRON vs. Steamboat FALLS CITY. } No. 14,512.

The court this day orders that the application of the parties for the removal of this cause to the Circuit Court of the United States, be fixed for trial for Tuesday next, the 28th instant, at 10 o'clock A. M., and that the attorneys of the different parties in this suit be notified thereof.

Notice of Trial.

State of Louisiana, Second District Court of New Orleans.

JAMES SHARRON vs. Steamboat FALLS CITY. } No. 14,512.

To George L. Bright and A. D. Rozier.

Gent :—Please to take notice, That the Rule in the above entitled case is fixed for trial on the 28th day of October, 1858.

(Signed) J. L. KELLY,
[SEAL.] Dy. Clerk.

Sheriff's Return.

Received October 21st, 1858, and on the 22d of the same month and year I served a copy of within notice of trial on George L. Bright and A. D. Rozier, Esquires, personally.

Returned same day. (Signed) GEORGE K. ROGERS,
D'y Sheriff.

Answer in form of Protest.

Filed 28th October, 1858.

JAMES SHARRON vs. Steamboat FALLS CITY. }

James B. Woods, John J. Roe, Wm. H. Scudder, and William J. Lewis, on whose attorneys a copy of the rule entered on the minutes of this court, on the 21st day of October, A. D. 1858, has been served, protest against said proceedings, and say that they are not bound to notice the same.

That, on their application, this honorable court, by judgment rendered on the eighth day of September, A. D. 1858, ordered the above-entitled cause to be removed for trial into the Circuit Court of the United States, in and for the Fifth Judicial Circuit in and for Eastern District of Louisiana, at the next ensuing November term, A. D. 1858, and they furnished security, as required by law, and the court accepted said surety; that this court has no further control over this cause.

(Signed) J. AD. ROZIER, and
BONFORD, SINGLETON & CLARK,
Att'ys for Woods and others.

Order—Case transferred.

Entry on Minutes, 28th October, 1858.

JAMES SHARRON
vs.
Steamboat FALLS CITY. } No. 14,512.

The application of the parties, for the removal of this cause to the Circuit Court of the United States, came on this day for trial.

Plaintiff absent, and not represented; J. A. Rozier, Bonford, Singleton & Clark, attorneys for the defendants.

When, after hearing and the court having duly considered, delivered the following opinion:—

Leave being allowed the defendants to file their answer in the form of a protest, considering that this cause is properly transferred to the Circuit Court of the United States by order of the 8th September last past:

It is ordered that the present rule be dismissed, and that the records be transmitted in accordance with the order of the 8th of September.

State of Louisiana, City of New Orleans.

I, P. S. Wiltz, clerk of the Second District Court of New Orleans, do hereby certify that the foregoing twenty-three pages contain a full, true, and correct transcript of all the documents filed, of all the testimony and evidence adduced, and of all the proceedings had in the suit of James Sharron vs. Steamboat Falls City, said suit being No. 14,512 of the records of this honorable court.

In testimony whereof I hereunto set my hand and affix the seal of said court, at New Orleans, this 30th day of October, in the year of our Lord one thousand eight hundred and fifty-eight,
[SEAL.] and of the Independence of the United States of America the 83d.
P. S. WILTZ, Clerk.

I, R. K. Howell, Judge of the Sixth District Court of New Orleans, acting in the absence of Judge P. H. Morgan, judge of the Second District Court of New Orleans, hereby certify that P. S.

Wiltz is clerk of said court; that the same is a court of record, and that the signature P. S. Wiltz, clerk, to the foregoing certificate is in the proper handwriting of him, the said clerk; to his official acts, as such, full faith and credit are due and owing; and I do further certify that his attestation is in due form of law.

Given under my hand and seal, at the city of New Orleans, on this first day of November, in the year of our Lord 1858.

R. K. HOWELL, Judge 6th Dist. Ct.,
Acting in the absence of Judge Morgan.

Proceedings in the U. S. Circuit Court.

Exceptions and Answer, filed 1st November, 1858.

JAMES SHARRON
vs.
The Steamboat FALLS CITY.

Fifth Judicial Circuit Court, in and for Eastern District of Louisiana.

James B. Woods, John J. Roe, William H. Scudder, and William J. Lewis, defendants in the above entitled suit and proceedings in rem, except to the petition and proceedings in rem of the said James Sharron, plaintiff, on the following grounds:—

1st. That if the allegations contained in the said petition of plaintiff were true, he shows no cause of action.

2d. The said plaintiff has not made such allegations as are required by law to be made, in order to obtain and sustain proceedings in rem against the steamboat New Falls City, in manner and form attempted, and it does not appear from the allegations contained in said petition, that the petitioner is entitled to any privilege whatever, on said boat, or to proceedings in rem, or to any relief.

3d. That defendants have never been served with personal process, in the above entitled suit and proceedings.

4th. That the said proceedings in rem, in manner and form herein attempted, are null and void, and should be set aside, and said proceedings in rem and suit should be dismissed, and declared null and void, and this court declared and adjudged to be without jurisdiction in the matters herein.

Wherefore, defendants pray that these exceptions be maintained, and the said suit and proceedings in rem be dismissed at the costs of petitioner.

Should these exceptions be overruled, then and in that case, the said James B. Woods, John J. Roe, William H. Scudder, and William J. Lewis, defendants, for answer to the said petition of plaintiff, in the above entitled suit and proceedings in rem, say, that they deny all and singular the allegations therein contained.

Defendants further say that at the time of the commencement of said suit and proceedings in rem, against the said steamboat New Falls City (erroneously named Falls City on the petition of plaintiff),

defendants were and continue to be the only owners of said boat, that they are the true and bona fide owners of said boat, and that no other person is the owner thereof, that petitioners in these proceedings have presented themselves as claimants and owners of said boat.

That defendants and the owners of said boat have invariably and constantly complied with all the regulations and laws of the United States, relative to steamboats; that the proper inspectors and other officers of the United States were called on, to inspect the hull, the boilers and machinery of said boat, at the times and places, and pursuant to the laws of the United States; and the said owners and officers of said boat have always obtained and provided themselves with the necessary certificates, that the said boat is and always has been sound, and in all respects seaworthy, and fit to be used for the transportation of freight and passengers; and that the boilers and machinery were and always have been sound and fit for use; and generally that all the laws of the United States, applicable to steamboats, have been complied with; and which certificates were and have always been in accordance with the truth.

Wherefore defendants pray that the demand of said plaintiff be rejected, and that he be condemned to pay costs of suit.

J. AD. ROZIER,
SINGLETON & CLACK, of Counsel.

Trial of Cause.

U. S. Circuit Court, Fifth Circuit and Eastern District of Louisiana.

April Term, 1859. New Orleans, Thursday, 28th April, 1859. Court met pursuant to adjournment. Present: Hon. J. A. Campbell, presiding judge; Hon. Theo. H. McCaleb, district judge.

JAMES SHARRON
vs.
Stmr. FALLS CITY } 3023.

This cause came on to be heard, Geo. Bright and R. Hunt, Esqrs. appearing for the plaintiff; P. E. Bonford and F. H. Clack, Esqrs., for the defendants. The following jurors were sworn and empanelled to try the issue joined between the parties, viz: S. H. Aby, M. Musson, J. Boyl, Thos. S. Elder, N. W. Bosworth, James Harrison, P. A. Giraud, and Alf. Penn, and it appearing that there were no other jurors in attendance, the following talesmen were sworn to complete the panel, viz: John W. Bower, Jno. Dougherty, R. W. Sowles, and Henry Fossman; and thereupon the cause was opened and witnesses heard on part of the plaintiff until three o'clock P. M., when it was ordered that the case be continued until to-morrow at 10 o'clock A. M., and that the jury be discharged until then.

U. S. Circuit Court, Fifth Circuit and Eastern District of Louisiana.

April Term, 1859. New Orleans, Friday, April 29th, 1859.

Court met pursuant to adjournment. Present: Hon. J. A. Campbell, presiding judge; Hon. Theo. H. McCaleb, district judge.

JAMES SHARRON
vs.
Stmr. FALLS CITY. } 3023.

This cause was resumed before the court and jury, and after the close of the evidence, was argued by Mr. Bright for the plaintiff and by Mr. Bonford for the defendants, and the hour of three o'clock P. M. having arrived, it was ordered that the cause be adjourned until to-morrow at 10 o'clock A. M., and that the jury be discharged until then.

Submission and Verdict.

U. S. Circuit Court, Fifth Circuit and Eastern District of Louisiana.

April Term, 1859.

New Orleans, Saturday, 30th April, 1859, court met pursuant to adjournment. Present: Hon. J. A. Campbell, Presiding Judge; Hon. Theo. H. McCaleb, District Judge.

JAMES SHARRON
vs.
Stmr. FALLS CITY. } 3023.

This cause was resumed before the court and jury, and was argued by Mr. Clack on part of defendants, and closed by Randall Hunt, Esq., on part of the plaintiff; whereupon, after charge from the court, Alfred Penn, Esq., was appointed foreman of the jury, and they retired to their room to deliberate upon their verdict; and shortly thereafter returned the following into court: "The jury find a verdict for plaintiff in this case with damages $6,000, say six thousand dollars; April 30th, 1859. Alf. Penn, foreman." Ordered that the verdict be recorded.

Defendant's Bill of Exceptions.

Filed 2d May, 1859.

Circuit Court of the U. S., Eastern District of Louisiana.

JAMES SHARRON
vs.
Stmr. FALLS CITY.

Be it remembered, upon the trial of this cause in the Circuit Court, before the jury, the plaintiff, to prove his issue, introduced evidence tending to show that, in 1858, he suffered an injury to his person, as set forth in his petition, in consequence of the explosion of a drumhead attached to the boilers on the steamer New Falls City, and from the escape of steam while that boat was on her voyage up the Mississippi River, near New Orleans. That at the time of the explosion

he was on another steamboat, on which he was employed as chief cook, which was lying at a wharf a short distance above New Orleans, where he received the injury. He introduced evidence to show that the drum-head in question was made of cast-iron, and without any alloyed metal or fusible plugs; that its diameter was thirty inches; its thickness varied from one and one-eighth of an inch to one and one-half of an inch; its thickness not being uniform. There was some evidence of a fracture and a leak, and also evidence that the metal was sound. The supervising inspector of the district, and the local inspectors appointed under the act of Congress of August, 1852, testified that cast-iron was not a suitable metal for a drum-head of that size. That the thickness of the metal was not sufficient for safety. That cast-iron was allowed in boilers of 18 or 20 inches in diameter, but they would not have certified the sufficiency of a boiler like this. That it should have been one and three-quarter inch in thickness for safety.

That cast-iron is more brittle and less elastic than wrought iron, and that wrought iron should have been used. That certificates were more readily obtained from inspectors in St. Louis than in New Orleans.

They further testified that there were no fusible plugs in the boilers of the Falls City, and that the safety valves after the explosion stood at 111, 112, and 187 inches respectively, and that two valves were sufficient to carry off all the steam. They attributed the explosion to a defect in the metal composing the drum-head, and that it was not visible, but was internal and only disclosed by the explosion, and that such defects were inherent in the nature of the metal and could not be avoided. Other evidence in writing was given, and those depositions are attached. The defendant offered countervailing testimony, oral and written, to the effect of the evidence contained in the depositions on file, and which are attached to this bill of exceptions, both in respect of the subject of the sufficiency of the machinery of the boat, and the skill and experience of its officers; and they offered evidence to show that the plaintiff at the time of the explosion was in the cook-house of his boat, and that if he had remained there he would have suffered but little or no damage; but that he jumped from the cook-house to the deck, and suffered damage either by that act or by encountering a volume of steam that bore him against the timbers of the boat, and so that the accident was occasioned in part by his own imprudence. And after the case was submitted to the jury the defendants requested the court to instruct the jury, 1st. That in order to enable the pl'ff to recover, the jury must be satisfied on the whole evidence that the bursting of the drum head occurred through the negligence of the owners of the New Falls City, or of their servants or employees, and that the injury to the plaintiff was directly occasioned by that negligence.

2d. That if the plaintiff contributed to the injury by his own imprudence, he is not entitled to recover.

3d. That negligence is the doing something that a reasonable man would do, or the omission to do something that a reasonable man would not do.

4th. That the question of negligence was a fact for the jury.

5th. That if the jury believe the bursting of the drum-head was owing to a latent defect in the material of which it was composed, which neither the owners of the boat nor their employees could discover by the exercise of a reasonable degree of diligence—the owners having employed suitable persons to construct the machinery—then the jury would be warranted in finding that the accident was not occasioned by the negligence of the owners, or of their servants.

6th. That in case the jury find for the plaintiff, they should assess the damages suffered by the plaintiff, and not vindictive or punitive, and that the jury cannot consider the wealth of the defendants in fixing the amount of the verdict.

7th. That if the instrument used was not improper defendants are not liable. That because there was a safer instrument than the one used by defendants is not necessarily a reason why they should be held liable; and the court then and there declined to give the charges in the words above, but in accordance with the practice of the court proceeded to charge the jury upon the the several points presented in the instructions and arguments, leaving to the parties respectively to except to the charge in the points complained of; and this court charged the jury to the effect, that the jury must be satisfied that the plaintiff suffered the injury complained of as a consequence of the explosion of the boilers of the Falls City, and without having contributed to it by any fault on his part. That if the jury should find that the plaintiff was in a secure position and rashly or inconsiderately abandon it and took a position of peril, and in consequence received the injury, he could not recover. But if the circumstances of the explosion were such as to create a reasonable impression of imminent danger, and the abandonment of his position was a reasonable precaution to avoid it, and in the attempt he received an injury in consequence of the explosion, his claim to compensation would not be excluded, although it should afterwards appear that he would have received comparatively little injury had he not changed his position, or that he had not adopted the most judicious means of escape.

The jury were further instructed that the owners of the Falls City were bound to use active diligence in fitting and equipping their vessel so that it should be suitable for the navigation, without exposing the lives of passengers and others to hazard. That in the selection of the materials for the machinery of the boat, and in its manufacture, they were bound to employ skill, intelligence and care, and in its management, they were bound to provide competent and faithful men, who should be actually engaged in attending to it. That upon the proof being made that the plaintiff had suffered from the injurious escape of steam, the act of Congress had imposed upon the defendants the burden of proving there had been no negligence. And

if it appeared that the material of which the machinery was composed was an inferior metal, or that the thickness of the drum-head was insufficient to bear the pressure to which it was habitually exposed, or that the metal was subject to innate and latent defects, which rendered its use insecure and doubtful, and there was another metal in common use for that purpose, not exposed to the same objections, and was altogether superior, that it would be a question for the jury whether there had been proper diligence employed in the selection of the materials for the construction of the engine, although it should appear that the explosion occurred from a defect in the metal that could not be ascertained by a vigilant inspection. And the jury were directed to determine upon the whole evidence whether there had been proper care, skill and intelligence employed in the preparation of the machinery, so as to guard against the disaster complained of.

And the jury were further instructed to inquire whether the engine had been managed with skill, intelligence and caution, by the engineers in the service of the defendants.

That it was their duty to see before the commencement of the voyage, and at suitable times during its continuance, that the engine was in complete order, and if there was any leak or fracture which rendered it insecure. And if the jury should find that the explosion arose from any fracture or other visible defect in the machinery, the defendants could only relieve themselves by proof that they had used all the means in their power to detect it prior to the commencement of the voyage.

The jury were instructed that the defendants were not liable to vindictive or punitive damages, and that the pecuniary condition of the defendants could not be considered in the estimate, but that the defendants were only liable for the natural and proximate loss the plaintiff had sustained in consequence of his injury.

And thereupon the defendants then and there excepted to the refusal of the court to charge the jury as asked for, and to the charge as given, that it was inconsistent with their prayer for instructions. And the court allowed this bill of exceptions, and have signed, sealed, and certified the same. May 2d, 1859.

J. A. CAMPBELL, Presiding Judge.
THEO. H. McCALEB, U. S. District Judge.

Depositions of Robert W. Jones, Homer W. Barron, and Isaac N. Stinson for plaintiff, annexed to Bill of Exceptions.

United States of America, Eastern District of Louisiana, city of New Orleans.

Be it remembered, that on this 10th day of November, 1858, I, the undersigned commissioner of the United States in and for the district aforesaid, did call and cause to come before me at my office, in the city of New Orleans, Robert W. Jones, Homer W. Barron,

and Isaac N. Stinson, persons of sound minds and lawful ages, witnesses on part of the plaintiff in a certain civil cause now pending and to be tried in the Circuit Court of the United States in and for the Fifth Circuit and Eastern District of Louisiana, wherein James Sharron is plaintiff, and the steamboat Falls City is defendant, being No. 3023 of the docket of the said court; and the said witnesses, having been by me first duly examined, and cautioned and sworn to testify to the whole truth and to nothing but the truth touching and concerning the matters and things in controversy between the parties to the said cause, did depose and say as follows, viz:—

Deposition of Robt. W. Jones.

Taken 10th November, 1858.

I am an engineer; I was engineer (first engineer) on the steamer John Simonds on the 14 April, 1858; the John Simonds left New Orleans about 5 o'clock P. M. of that day; she went up as high as Washington Street before she stopped; she stopped there for the purpose of *keying* up the after end of the pitman; the Falls City came up; when she was opposite our after guard, little abaft the wheel-house, she bursted her drum-head; it was the starboard head of the steam-drum; it blew portions of the head through the Simonds; I found two or three pieces of it on her deck; it blew off the upper guard of the Falls City, and threw two negro boys on to our boat; they were both dead when I saw them; it injured several persons on the Simonds; it broke the leg of Mr. Sharron, the plaintiff in this case; I was near the forward end of the cylinder on the Simonds when the explosion occurred; after the explosion, I saw Sharron seated on the deck of the Simonds, and holding his leg, which was broken; I examined some of the pieces of the drum-head which were blown on to the Simonds; it was made of cast-iron; no cast-iron is perfect; there are defects in all castings; I measured the piece of the drum-head of which I have spoken; it was an inch and $\frac{1}{8}$th in thickness; the diameter of the drum was thirty inches; the drum-head was not thick enough for a drum of that diameter; being of cast-iron, it should have been two inches thick; the inspectors in this city have condemned the use of cast-iron for drum-heads; a cast-iron head should never be put in a drum of such diameter as this; I examined the rim that was left on the steam-drum on board the Falls City; I found a crack in it.

(Objected to by def'd't.)

Packard, the engineer of the Falls City, got a candle, and I went with him to look at the rim of the steam-drum; I pointed out the crack in it to him; he said he had not seen it before; it was plain; it showed that there was a leak there; from the appearance of the crack, I think it must have existed before the Falls City left New Orleans.

(Objected to.)

The Falls City was allowed 117 pounds of steam.

If the drum-head had been a good one, the drum would not have bursted.

Cross-examination.

I saw Sharron a few minutes after the explosion; it was as soon as the Falls City passed our boat; it was not more than three minutes after; I could not see Mr. Sharron at the instant of the explosion; nor do I know in what portion of the boat he then was; I did not see him until the time I have mentioned; I looked at his leg at the time; the skin was not broken; but the bone was broken in several places, and it was swollen, and he appeared to be in great pain; I cannot tell against what his leg struck that caused the injury; he was carried by the force of the steam against the doctor, and it was thus his leg was broken; I do not know of my personal knowledge that he was carried by the force of the steam against the doctor; but he was up close to the doctor when I found him. The steam reached the cook-house, and it carried away the pantry; I saw this with my own eyes; Mr. Sharron was injured by the force of the steam carrying him against the doctor; I was not in a situation to see him at the time; I did not see him carried; everything around there was carried away by the steam; I do not know of my own personal knowledge where Sharron was standing at the time of the explosion; I never inspected the drum-head before the explosion; the crack in the drum-head must have been visible to the eye before the explosion; there was a crack, and I could see where it had been leaking; the leaking would cause a white incrustation, of mud, I presume, around the crack spoken of; this sign of a leak could undoubtedly have been seen before the explosion; I cannot say how long before the explosion this sign of leaking could have been seen; I am still first engineer on the Simonds; Sharron is still on our boat; has been on her, I think, since the 6th October, in capacity of first cook; I went on the Simonds early last spring, and have been on her ever since; Sharron was then on board of her, but I was not then acquainted with him.

Ex. in chief resumed.

Mr. Sharron was well before this accident; nothing was the matter with his legs.

ROBERT W. JONES.

Deposition of Homer W. Barron.

Taken 10 November, 1858.

I was first steward on the Simonds on 14 April, 1858. I was on board when the drumhead of the Falls City bursted. I was standing on the starboard guard, right by the storeroom door. I was blown off the boat where I was standing on to a towboat. The storekeeper was blown into the river. I was wet, but not injured. I was off the Simonds from three to five minutes, and was then called back by the

second clerk, who said the danger was all over. When I returned on board, the first man I saw was Stinson, who was lying on deck, all wet and bloody, and senseless. I sent for a mattress to put Stinson on, when some one called to me and said that Mr. Sharron was almost killed. I went to him, and found him lying on his back near a stanchion by the doctor. His leg was badly mashed. I asked him what was the matter, and he said, "O God! I am almost killed." I took his leg in my hands, and found, from the manner in which it hung, that the bones were broken. I called for a mattress, and had him taken ashore, and I went with him. I had him sent to my house. He remained there, under the care of a physician, for some two months, until I went north with my family in June. For seven weeks he never moved, unless with the assistance of my wife and brother. My wife and brother nursed him; they sat up with him. I saw him myself whenever I came home, and would assist in dressing his leg. I was absent from home sometimes for from ten to fourteen days, and would then stay at home three or four days; and on my return from one trip I remained at home for seven nights and eight days. I had an opportunity of witnessing his sufferings; it was very great. When I left on my first trip after the accident I had no expectations of finding him alive on my return. If it had not been for careful nursing and attention, he certainly would have died. Dr. Choppin attended him. I had known Mr. Sharron for some three or four years before the accident. He was a stout, hearty man. He is not as stout now as he was then, nor do I think he ever will be.

Cross-examination.

I do not know where Sharron was standing at the instant of the explosion, but about 10 minutes before, when we were backing out, I saw him standing at the kitchen door. The steam came forward of the wheelhouse, blowed the windows out of the kitchen, blowed the pantry off, and blowed the forward guards up. Mr. Sharron had been employed on the boat with me for some two or three years before the accident. We are both still in the employment of the boat.

Ex. in chief resumed.

When I was in town, during the sickness of Sharron, I generally went home at three o'clock in the afternoon, and remained there until seven o'clock the next morning.

HOMER W. BARRON.

Deposition of Isaac Stinson.

Taken 10 November, 1858.

I was striker and engineer on board the Simonds on 14th April, 1858. She left New Orleans about 5 o'clock P. M. that day. She stopped at the foot of Washington Street, for the purpose of cleaning

up the after part of the pitman. I saw the Falls City come up about one minute before the explosion took place. At the instant of the explosion she was opposite our after guards, abaft our wheel. The starboard head of the steam-drum on the Falls City bursted, and more than half of it passed through the Simonds. It tore away all the light work on the Simonds abaft the wheelhouse, and one stanchion and one or two hog chains. It injured several persons, and myself among them. I was knocked by something on the head, and was knocked senseless. When I came to, I was lying on a mattress on the upper deck, and was bloody and wet all over. I did not see Sharron at the time. I examined some portions of the drum-head that were blown into the Simonds some time afterwards; it was made of cast-iron; it was an inch and one-eighth thick. I never examined the drum on the Falls City; but if it was thirty inches in diameter, cast-iron of the thickness mentioned would not be sufficiently thick for a head. No head of cast-iron should be put in such a drum. At the time I saw the Falls City coming up I cannot say how fast she was running, but she was running as fast or faster than I ever saw her run before. I have seen her running two or three times.

Cross-examination.

I was standing right between our wheels at the time of the explosion. The pantry was blown away, but nothing forward of it was injured; I cannot say that anything inside of the cook-house was injured; I am in error in saying that nothing forward of the wheelhouse was carried off; the bulkhead that shuts in the engine on the larboard side, and the windows in the bulkhead on the starboard side were blown off; I have been on the Simonds with Sharron since February; we are still on board. ISAAC N. STINSON.

And further I certify, that said depositions were by me reduced to writing in the presence of the said witnesses, and that, after having carefully read to each witness his respective deposition, they were by them signed in my presence. The reason for taking said depositions is, that all the said witnesses are about to depart from this State and beyond the jurisdiction of the court. That due and written notice of the time and place of taking the said depositions was given to J. Ad. Rozier, Esq., the attorney of record of the said defendant, the "Falls City," and that he did attend the same, and cross-examined the said witnesses. That I am not of counsel or attorney to any of the parties to the said cause, nor am I in anywise interested in the event thereof.

All which I certify, under my hand and private seal, at New Orleans, this 10th November, A. D. 1858.

[SEAL.] J. W. GURLEY, U. S. Commissioner
in and for Eastern District of Louisiana.

Deposition of W. Dewey, annexed to Bill of Exceptions.

United States of America, Eastern District of
Louisiana, City of New Orleans.

Be it remembered, that, on this 4th day of January, 1859, I, the undersigned commissioner of the United States in and for the Eastern District of Louisiana, duly commissioned and sworn by the honorable the Circuit Court of the United States for the district aforesaid, did call and cause to come before me at my office, in the city of New Orleans, Wm. Dewey, a person of sound mind and lawful age, a witness on part of the plaintiff in a certain civil cause now pending and to be tried in the said Circuit Court, wherein James Sharron is plaintiff and the Falls City is defendant, and the said witness, having been by me duly examined and cautioned and sworn to testify to the truth and to nothing but the truth touching and concerning the matters and things in controversy between the parties to the said cause, did depose and say as follows, viz:—

Deposition of Wm. Dewey for Pl'ffs, taken 4th January, 1859.

I am a licensed engineer; engineer by occupation; a first engineer. On 14 April, 1858, I was second engineer on the John Simonds, and was on watch. She left New Orleans on that day, at little after 5 o'clock P. M., for Memphis. We landed at the stock landing above the city. The New Falls City was behind us when we landed. When she got opposite to the Simonds the steam drum-head was blown out. Some portions of it passed through the Simonds, and other portions lodged on her. Do not know how many persons on the Simonds were injured by the explosion. I saw two carried forward, and also saw two dead. Those carried forward were said to be dead. Saw several injured. (Objected to by def'ts counsel.) James Sharron was, at the time, employed on the Simonds as first cook. He was hurt by the explosion. A minute or two before the explosion I saw him standing out on the guard, and immediately after the smoke of the explosion cleared off I saw him carried off, and I supposed him either dead or badly hurt. I afterwards understood that his leg was broken. He was carried off to the steward's house in the city, and the next day the Simonds proceeded on her voyage. She was so injured that she could not continue her voyage till then. It was not until last October that Sharron was able to go out. He then told me that he had not been doing anything; that he was not able to work. (Objected to by def'ts.) He was then walking with two canes. He was limping, and seemed to walk with difficulty. I picked up several pieces of the head of the steam-drum that was blown from the Falls City on the Simonds and examined them. It was said that the steam-drum was 30 inches in diameter, but I did not measure it. It appeared to be about that size. It was a tolerable large size drum. I measured the thickness of the head; it varied considerably in thickness; in some places it measured an inch and a

quarter, and in others an inch and an eighth. I was very particular in making the measurement. I thought it was very unusual to make a head of that size of such thickness. I do not know that I ever saw a steam-drum of that size have a cast-iron head in it. I have seen cast-iron heads of smaller diameter. In drums of 18, 20, or 22 inches, cast-iron heads are generally used; and, then, for an 18 or 20 inch drum, they are an inch and a half thick; and for a 22 or 24 inch drum, they are an inch and three-quarters thick. The head I examined was too thin. There was not metal enough in it. It was too light. I perceived no other defects. If I had been having a drum-head made for a drum of the size of that of the New Falls City, I should have had it made of wrought-iron. Wrought-iron is considered stronger than cast-iron; it is more elastic, and not so brittle. A drum-head of wrought-iron for a drum of the size of that of the Falls City should be from five-eighths to an inch in thickness. The wrought-iron heads should be built concave, and the cast-iron ones should be straight or flat. That of the Falls City was flat. If a steam drum and boiler are made of suitable materials the boiler is more apt to give way than the drum. The shell of the drum is made of the same material as the boiler.

Being asked, What was the cause of this explosion? says: I am not able to tell you, but I suppose it was on account of there being too much pressure for the material of the drum-head.

Question. Give us your opinion of the cause of an explosion? (Objected to by defendants.)

Answer. Sometimes it is owing to defects in the boiler, and at other times it may be owing to negligence in the engineer.

What was the cause of the explosion in this case?

I should think it was owing to there not being enough material put into the drum-head to make it strong enough.

If the boilers and machinery be made of proper material, and the engineer be careful and competent, can an explosion occur?

(Objected to by defendants.)

Answer. I should judge that an explosion would not be very likely to take place.

When engineers clean out their boilers after arriving in port, they generally go into them with a light, and examine each boiler, and if any defect is discovered, it is their duty to have it repaired at once, and without consulting with the captain about it. I am now employed on the Simonds as first engineer.

Question. Do you know of any other accident happening to the machinery of the Falls City?

Answer. Not of my own knowledge.

Cross-examination.

I have worked upon building the machinery of steamboats. I so worked at St. Louis, in the employ of Craig and Hamilton, about twelve or fourteen years ago. I worked in their employ four months,

and in the employ of Mr. Ford two months, and in Evans's employ for 4 years, and worked for Mr. Runnels, at Tremont, Illinois, about six miles from the Illinois River, about six weeks. These persons all kept blacksmith shops, and did forging for engines. The John Simonds did not stop before she got to the stock landing; she landed against a ferry boat or job boat, or something of that kind; she stopped there to key up a wrist; she did so. The stern of the Falls City must have been just about opposite the John Simonds' shafts at the time of the explosion. The length from the main to the boiler-deck of the Simonds is about 16 feet. I do not think the Falls City is as high between decks as the Simonds. The pieces of the drum-head of the Falls City that I picked up on the Simonds were principally aft or abaft the wheel-house. The explosion would not have had the effect of making the portions of iron which I picked up either thicker or thinner. The largest piece I saw was about 14 inches long and ten inches wide; it was of triangular shape. Some of the pieces were not larger than my hand, and some of them would not weigh a pound. Just before the explosion, Sharron was standing on the guard, just in front of the cook house. I know he must have been struck by the steam, if by nothing else. The steam struck me and knocked me off the foot-box through a door, but did not hurt me much. One of the persons of whom I have spoken as being killed was blown from off the Falls City on to the Simonds into her deck-room, abaft her wheel-house. The other person who was found killed on the Simonds was found abaft the wheel-house. Mr. Stinson was blown from the engine room, forward of the wheel-house, on to the starboard guard. No one else forward of the wheel-house was seriously injured except Mr. Sharron. Mr. Sharron was wet all over and bloody.

Being asked whether he is positive that Sharron was standing on the guard at the time of the explosion, says: I do not know where he was—but he was there a minute before the explosion—as nearly as I can judge, it was about a minute before. After the steam of the explosion cleared away we found Sharron lying doubled around a stanchion, just at the after end of the boilers on the larboard side—it is one of those which support the boiler deck, and is just under the edge of it. There is a pair of steps leading from the door of the cook-house, near which Sharron was standing just before the explosion, into the pantry; and there is a door leading from the pantry out on to the boiler deck guard. The guards make a turn there at the pantry, leaving a clear space in front of the pantry free from upper deck guards. I did not see Sharron from the time he was taken ashore from the boat until he returned back in October last. WM. DEWEY.

And further I certify, that the said deposition was by me reduced to writing in the presence of the said witness, and was by him signed in my presence, after having read to him the same. That the reason

of taking said deposition is that the said witness is about to depart from this State and district. That a written notice of the time and place of taking said deposition was made out and duly served upon J. Ad. Rozier, one of the counsel of the defendants, and that Franklin Clack, Esq., another of the counsel of the said defendants, did attend at the said examination and cross-examined the said witness. That I am not of counsel or attorney to any of the parties to the said cause, nor am I in anywise interested in the result thereof. All which I now certify under my hand and private seal to the court, for which the said deposition was taken. New Orleans, 4th January, A. D. 1859.

[SEAL.] J. W. GURLEY, U. S. Com'r.

Deposition of Jno. S. McCune and others annexed to Bill of Exceptions.

Commission.

Circuit Court of the United States for the 5th Judicial Circuit holding sessions in and for the Eastern District of Louisiana.

To any commissioner of the United States or commissioner for the State of Louisiana, St. Louis, Missouri. Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you the witnesses named in the annexed interrogatories, and them duly examine on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein James Sharron is plaintiff and steamboat Falls City is defendant; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Hon. R. B. Taney, Chief Justice of the Supreme Court of the United States, at the City of New Orleans, this 24th day of December, Anno Domini 1858, and the 83d year of the independence of the United States of America.

[SEAL.] J. W. GURLEY, Clerk.

JAMES SHARRON vs. Stbt. FALLS CITY. } No.

U. S. Circuit Court in and for the Eastern District of Louisiana.

Interrogatories to be propounded to Isaac Cable, James Russell, W. W. Beebee and others, witnesses on the part of defendants, whose answers thereto are to be read as evidence at the trial of the above entitled suit, on the part of defendants.

First. Were you on board of the steamboat New Falls City on the 14 day of April, A. D. 1858, at the time the starboard head was blown out of the steam-drum? If yea, in what capacity?

Second. Where did said accident happen? on what part of the boat were you at the time? at what rate of speed was the boat progressing? was it the usual speed of the boat, at which she usually ran, at the place of explosion, and at the time of day? at what distance from the nearer shore was she running? how was she running as to her course, whether in the right manner, at the right place, according to the rules of navigation observed on the river, and in all other respects? what pressure of steam was she carrying at the time? what did the gauge indicate at the time and before the accident? was there any excitement on board at the time in regard to the speed of the boat, or to the movements of any other boat at and previous to the time of the accident?

Third. At the time of the explosion was there a steamboat near the New Falls City? If yea, what was her name, and the distance that separated you? What was this boat doing at the time; was she stationary or moving? were you passing her at the usual distance, and place? If you say she had landed at Lafayette, state how she landed there; if she started out, state the manner, her course, and whether it was done according to the rules of navigation recognized on the river. State the positions of the two boats at the instant of the explosion. Did any of the steam that escaped from the New Falls City reach the steamboat John Simonds? If yea, what portions of it? Was anything ejected from off the New Falls City on to the John Simonds? If yea, what portions of the Simonds were reached and struck, if any? was the cook-house struck or injured? Give a statement of the effects of the accident in this respect.

Fourth. Who were the engineers and their assistants on board of the New Falls City at the time of the explosion? Were they competent, careful, and attentive officers? In what estimation were they held by experienced river men? How long had they been engaged in their respective occupations?

Fifth. How many trips had the New Falls City made, between the ports of New Orleans and St. Louis, previous to the explosion?

Sixth. Who was in command of the New Falls City at the time of the explosion? Did, or not, said person, prior to, or at the time of said explosion, interfere in any way with the regulation of the steam of the boat?—or did he at any time do so?

Seventh. What was the speed of the New Falls City at the time of the explosion? Was it ordinary, or otherwise?

Eighth. State fully anything else that you know that may benefit defendants, who are sued by plaintiff under the allegation that, being at the time on board the J. S. Simonds, he was injured by the explosion of the steam-drum of the New Falls City, which injury he attributed to the fault of the machinery of the New Falls City, and to the improper conduct, negligence and mismanagement of those in charge of and on board of said boat.

BONFORD, SINGLETON & CLACK,
Defdt's Atty's.

Depositions of witnesses produced, sworn and examined, on the days hereinafter stated, at my office, in the city of St. Louis, State of Missouri, under and by virtue of the annexed commission, issued out of the Circuit Court of the United States for the Fifth Judicial Circuit of the Eastern District of Louisiana, to take depositions in a certain cause pending and at issue between James Sharron, pl'ff, and steamboat Falls City, defendant, before me, Edw. W. Shands, Commissioner for the State of Louisiana, at St. Louis City, Missouri.

Isaac Chauncey Cable, who first being duly sworn on the Holy Evangelists, on this, the 21st day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the 1st interrogatory he saith. Yes; I was in the capacity of pilot.

To the second interrogatory he saith: Said accident happened at Lafayette, Louisiana, at the foot of Washington Avenue. I was on the hurricane deck, starboard side, forward of the chimneys. The boat was running at about her usual speed, say nine miles per hour. She was about seventy-five yards from the nearer shore, in her right place, in the right manner, according to the rules of the navigation observed on the river. I do not know what pressure of steam she was carrying at the time. There was no excitement, that I could perceive, at the time, in regard to the speed of the boat, or to the movements of any other boat, at or previous to the time of the accident.

To the third interrogatory he saith: The John Simonds was near the New Falls City at the time of the explosion. She was about from the New Falls City. The John Simonds had landed, and was ready to start out, swinging her bow gradually out from shore. The New Falls City was passing her at the usual distance and place. The John Simonds landed alongside of the steamer Pascagoula, and swung quartering across the bow of the Pascagoula, throwing the stern of the John Simonds out into the river, at an angle of about thirty-five degrees. When ready to start, the bow of the John Simonds was swung out a little, when the New Falls City came abreast the stern of the John Simonds. The New Falls City was running parallel with the shore. Part of the steam which escaped from the New Falls City did reach the John Simonds. I don't know what portions of it. Something was ejected from off the New Falls City on to the John Simonds. The after larboard guard and pantry of the John Simonds were reached and struck. I believe the cook-house was not struck or injured.

To the fourth interrogatory he answers and saith: Timothy Packard and Mr. Mann were the engineers. I do not know who were their assistants. Said Packard and Mann were competent, careful, and attentive officers, and were held in very high estimation by experienced river men. Mr. Packard had been on the river about

twenty-six years. I can't state how long Mr. Mann had been on the river.

To the fifth interrogatory he answers: Five trips.

To the sixth interrogatory he saith: W. H. Scudder was in command of her at the time. He never did at any time, to my knowledge, interfere in any manner with the regulation of the steam of the boat.

To the seventh interrogatory he saith: Her speed at the time was ordinary, say nine or ten miles an hour.

To the eighth interrogatory he saith: I believe all of the officers of the New Falls City to have been experienced, careful, and prudent persons in the discharge of their duties. Capt. W. H. Scudder had frequently impressed upon all the necessity of carefulness, and said that to go safe was of more importance than to make fast time. He (Capt. Scudder) had frequently told me to go safe, regardless of time or distance. ISAAC CHAUNCEY CABLE.

Sworn to and subscribed before me, this the 21st day of March, in the year 1859. Witness my hand and seal.

[SEAL.] EDW. W. SHANDS, Commissioner.

W. W. Bebee, who being first duly sworn on the Holy Evangelists, on this the 22d day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the first interrogatory, he saith. Yes, I was on board of said steamboat New Falls City at that time, in the capacity of mate.

To the second interrogatory, he saith. Said accident happened at the foot of Washington street, Lafayette, above New Orleans; I was at the time sitting on the starboard guard of the lower or main deck. The boat was progressing at her usual rate of speed. She was from one hundred to one hundred and fifty yards distant from the nearest shore. She was at the time running in the right manner at the right place, and according to the rules of navigation observed on the river; I do not know what pressure of steam she was carrying at the time, I did not see the gauge. There was no excitement on board at the time in regard to the speed of the boat, so far as I could see, or to the movements of any other boat, at or previous to the time of the accident.

To the third interrogatory, he saith. Yes, the steamboat John Simonds was near the New Falls City, from thirty to sixty feet. She was stationary at the time. We were passing her at the usual distance and place. The John Simonds landed outside of and against a ferry boat which was lying at the foot of Washington street. I do not know whether the Simonds had started out or not. At the time of the explosion the New Falls City was passing the John Simonds as the latter lay outside of the ferry boat, and the two boats were from thirty to sixty feet apart. Part of the steam which escaped the New Falls City did reach the steamboat John Simonds. The steam struck the John Simonds aft of the wheel-house. Some

wood and part of steam drum-head of the New Falls City were ejected from off the New Falls City on to the John Simonds, and struck the latter aft of the wheel-house. I cannot say whether the cook-house was struck or injured or not; the pantry was struck by the steam; all of the hard missiles struck the Simonds aft of the wheel-house of the latter. I know of five who were killed by the accident. I do not know of any who were injured. The Simonds was slightly damaged, to what amount I cannot tell. All those who were killed were of the crew of the New Falls City.

To the fourth interrogatory, he saith. Mr. Packard was first engineer, and Augustus Mann was his assistant engineer. Two negroes were strikers. They were competent, careful and attentive officers. They were held as tiptop engineers by experienced river men. I have known Packard six or seven years as an engineer, and part of that time have been on the same boats with him. I have known Aug. Mann about two years as engineer.

To the fifth interrogatory, he saith. This was her first trip between these ports.

To the sixth interrogatory, he saith. Capt. Wm. H. Scudder was in command of her at the time. He never, to my knowledge, prior to or at the time of said explosion, interfered in any manner with the regulation of the steam of the boat; he did not at any time do so to my knowledge.

To the seventh interrogatory, he saith. She was running at her ordinary speed, which is about ten to twelve miles per hour.

To the eighth interrogatory, he saith. I handled all the machinery which was used on the New Falls City; I was on said boat as mate when she was being built; I was present when the machinery was inspected by the inspectors, and I know that every precaution and care was used and taken to have said machinery complete and perfect.

W. W. BEBEE.

Sworn to and subscribed before me, this the 22d day of March, in the year 1859. Witness my hand and seal.

[SEAL.] EDW. W. SHANDS, Commissioner.

JAMES SHARRON
vs.
Steamboat FALLS CITY. } No.

United States Circuit Court, in and for the Eastern District of Louisiana.

Interrogatories to be propounded to Samuel Gaty, Amos Howe, John S. McCune, and other witnesses, persons engaged in the manufacture of steam-engines and other machinery, belonging to steam vessels, and whose answers are to be read, as evidence, on the part of defendants.

1st. Where do you reside? Are you or have you been engaged in the manufacture of steam-engines and other machinery, belong-

ing to steam vessels? If yea, at what place and how long and to what extent?

Second. Are you acquainted with Renfrew, Crozier, and Pomeroy, of St. Louis, in the State of Missouri? What is their business? If you say engaged in the same kind of business as yourselves, or in the manufacture of machinery for boats, state the nature and the extent of their establishment. What is their general reputation and standing as builders of engines and machinery for boats, with regard to their competency, workmanship, skill, attention and prudence? Are they patronized, and to what extent? What kind of workmen have they always employed? What is your opinion of these builders, with respect to their competency, workmanship, skill, attention and prudence.

Second. Did you ever examine the boilers and machinery of the steamboat "New Falls City," and specially her steam drumhead, previous to the 14th day of April, A. D. 1858? What was your opinion of the work and materials? Did you consider them sound and fit for use? Could you detect any flaw or defects in them? State at what place, and at what time you made your examination?

Third. Are you acquainted with T. R. Packard and A. R. Mann? How long have you known them? What is their employment and how long have they been engaged in the same? What are their standing, reputation and capacity in their business?

Fourth. How does the cast-iron drum-head compare with other kinds? Have you ever manufactured the former? If yea, how long? Have you ever used the same? If yea, on what boats and how long, and to whom do said boats belong? How long have you known the cast-iron drum-heads to be used? State whether or not you ever knew or heard of a drum-head, like that on the New Falls City, blowing out as in this instance?

BONFORD, SINGLETON & CLACK,
Atty's for Deft.

Samuel Gaty, who, being first duly sworn on the Holy Evangelists, on this the 23d day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the first interrogatory, he saith. I reside in St. Louis city, Missouri; I have been engaged in the manufacture of steam engines and other machinery belonging to steam vessels, for thirty years in the city of St. Louis, and to a large extent.

To the second interrogatory, he saith. I am acquainted with said firm of Renfrew, Crozier & Pomeroy; they are engaged in the manufacture of steam-engines and boilers. I cannot say what is the extent of their business, but their works are large, and I believe they do a fair share of business in their line. Their general reputation and standing, as builders of engines and machinery for boats, is Number One; I cannot state to what extent they are patronized, but I should judge that they received a fair share of business in their

line; I do not know what kind of workmen they have always employed; I believe them to be competent, skilful, attentive, and prudent workmen and builders.

To the second interrogatory, he saith. I never gave the machinery of the New Falls City, or any particular part of it, any thorough examination, and consequently cannot give any opinion as to the work and materials.

To the third interrogatory, he saith. I am personally acquainted with T. R. Packard; I have known him for ten years; his occupation is that of a steamboat-engineer; I have known him in that capacity for ten years; his standing, reputation, and capacity in his business is of the best character. I have no acquaintance with A. R. Mann.

To the fourth interrogatory, he saith. The cast-iron drum-head compares favorably with other kinds; have manufactured the former for fifteen years, and have known them to have been used for that length of time. One firm have used them on the boats mentioned in the schedule hereto attached, and marked "B," and made part of my deposition. I never had an accident to occur to any one of them, and never knew or heard of a drum-head like that on the New Falls City blowing out. SAMUEL GATY.

Sworn to and subscribed before me this the 23d of March, in the year 1859. Witness my hand and seal.

[SEAL.] EDW. W. SHANDS,
Commissioner.

Attached to Deposition of Samuel Gaty.

Schedule "B."

Steamboats.	Owners.	Built.
Amelia,	A. B. Miller,	1846
Bon Accord,	Burshean and others,	1846
Tamerlane,	W. B. Miller,	1846
Kansas,	McPherson,	1847
Kate Kearney,	Keokuk Packet Co.	1847
Mandan,	Beer & Cheever,	1847
Montauk,	R. A. Reilly,	1847
Ploughboy,	J. McKee & others,	1848
St. Paul,	Cable & others,	1848
St. Ange,	Labarge,	1848
Timour,	W. B. Miller,	1849
Aleck Scott,	J. C. Swon & others,	1850
Isabel,	W. B. Miller,	1850
Saint Louis,	George Taylor & others,	1850
Altona,	Jos. Brown & others,	1851
Martha Jewett,	Jewett,	1851
Die Vernon,	Keokuk Packet Co.	1850
Jeanie Deaner,	Do.	1852
New Lucy,	Do.	1852

Steamboats.	Owners.	Built.
Polar Star,	Brierly & Blossom,	1852
Verona,	Barkley,	1852
Oceana,	Wm. Edds & others,	1854
Keokuk,	Keokuk Packet Co.,	1854
E. A. Ogden,	Gaty & others,	1855
May Flower,	Jos. Brown & others,	1855
T. H. Larkin,	W. B. Miller,	1855
Ferry New Era,	Henry D. Bacon,	1856
A. C. Goddin,	Irvin & others,	1856
Quincy,	Keokuk Packet Co.	1856
Hannibal City,	Do.	1857
City of Louisiana,	Do.	1857
Warsaw,	Do.	1858

Amos Howe, who being first duly sworn on the Holy Evangelists, on this the 24 day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the 1st interrogatory, he saith. I reside in the city of St. Louis, State of Missouri. I have been engaged in the manufactory of steam engines and boilers for thirteen years, at St. Louis city, Missouri.

To the 2d interrogatory, he saith. I know the firm of Renfrew, Crozier, and Pomeroy, of St. Louis City. They are builders of steam engines, boilers, and machinery for steam vessels. They do a fair share of business in their line, and have a large establishment. Their reputation and standing as builders of engines and machinery for boats is good, and I believe them to be competent workmen. They have considerable patronage. I do not know what kind of workmen they employ.

To the second interrogatory, he saith. I never examined the boilers and machinery of the New Falls City particularly. I have frequently been on board of her, but never had occasion to examine her machinery closely, and could consequently give no opinion in regard to it.

To the third interrogatory, he saith. I am personally acquainted with T. R. Packard. Have known him ten years. His occupation is that of steamboat engineer, and his reputation for capacity and competency in his business is the very best. I do not know A. R. Mann.

To the fourth interrogatory, he saith. Cast-iron drum-heads are considered equally as good as other kinds. One firm have used them; have used the same. I have known them to be used for thirteen years past on the boats mentioned in the schedule hereto attached and marked "A," and made part of my answer to this interrogatory. I never heard of one of them blowing out like that on the New Falls City.

AMOS HOWE.

Sworn to and subscribed before me, this, the 24th day of March, in the year 1859.

Witness my hand and seal.

[SEAL.] EDW. W. SHANDS,
Commissioner.

Referred in Deposition of Amos Howe.

Schedule "A."

Have used them on board steamboats.

Boats.	Owners.	Built.
Alyoma,	Anderson Miller,	1846
Amelia,	A. Miller,	1846
Bon Accord,	Burshean & others,	1846
Tamerlane,	W. B. Miller,	1846
Kansas,	McPherson,	1847
Kate Kearney,	Keokuk Packet Co.,	1847
Mandan,	Beer & Cheever,	1847
Montauk,	R. A. Reilly,	1847
Ploughboy,	J. McKee & others,	1848
St. Paul,	Cable & others,	1848
St. Ange,	Labarge,	1848
Timour,	W. B. Miller,	1849
Aleck Scott,	J. C. Swon & others,	1850
Isabel,	W. B. Miller,	1850
Saint Louis,	Geo. Taylor & others,	1850
Altona,	Jos. Brown & others,	1851
Martha Jewett,	Jewett,	1851
Die Vernon,	Keokuk Packet Co.,	1850
Jeanie Deans,	do.	1852
New Lucy,	do.	1852
Polar Star,	Brierly & Blossom,	1852
Verona,	Barkley,	1852
Oceana,	Wm. Edds & others,	

James Collins, who being first duly sworn on the Holy Evangelists, on this, the 25th day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the first interrogatory he saith. I reside in St. Louis City, State of Missouri; for twenty-five years I have been engaged in the manufactory of steam engines, boilers and machinery for use on steam vessels at St. Louis City; have been engaged in this business to a large extent.

To the second interrogatory he saith. I am personally acquainted with the firm of Renfrew, Crozier & Pomeroy; they are engaged in the manufactory of steam engines and boilers, &c., and have quite a large business; their reputation as builders of engines and machinery for boats is very good; they are perfectly competent to

build engines, boilers, and other machinery for steamboats; I believe they are very well patronized; my opinion is that they are competent and skilful workmen.

To the second interrogatory he answers. I have frequently been on board of the stm'r Falls City previous to the 14th April, 1858; from a general observation (I did not make any thorough examination), I would say that her machinery is that which is known as first class; I never gave her steam drum-heads a particular examination.

To the third interrogatory he saith. I am personally acquainted with T. R. Packard and A. R. Mann, and have known them a number of years, say 10 or 15 years; their reputation and standing is that of first class engineers, and this is my belief from having seen them in the discharge of their duties.

To the fourth interrogatory he saith. Cast-iron drum-heads compare favorably with other kinds—they are in general use; we have manufactured them and used them on many boats during the past thirteen years; the names of the boats and owners are given in the schedule hereto attached and made part of my answer, and marked "A;" I never knew of an accident from the use of them like that on the New Falls City. JAMES COLLINS.

Sworn to and subscribed before me, this, the 25th day of March, in the year 1859.

Witness my hand and seal.

[SEAL.] EDW. W. SHANDS, Commissioner.

JAMES SHARRON
vs.
Stm'bt Falls City.

United States Circuit Court in and for the Eastern District La.

Interrogatories to be propounded to Renfrew, Crozier, Pomeroy and others, witnesses on the part of defendants, whose answers thereto are to be read as evidence at the trial of the above entitled suit.

First. Where do you reside? What is your business or occupation, and how long, and where, have you been engaged in it? and to what extent?

Second. Have you ever seen the steamboat New Falls City, a boat running between the ports of St. Louis and New Orleans? If yea, where was she built, and where were her boilers and machinery manufactured? and state the time. Did you examine them before and at the time said boat commenced running? and state the place and time. State whether said boilers and machinery, and specially the steam drum-head, of said boat, were sound and fit for use, and state fully your means of knowledge. State the nature of the materials out of which it was manufactured, thickness of the metal, and the dimensions of it generally. State whether the workmen who executed the work were competent and careful. Where were the mate-

rials procured, and their quality, and whether they were good and such as were safe and prudent to use. Could any defects or flaw have been detected before and after they were made use of? What was the style and character of the workmanship? Did said work ever undergo an examination by competent persons engaged in the manufacture of steam engines, steamboat boilers, or other machinery belonging to steam vessels? If yea, state the names, the place and time of the examination, and their opinion as to the materials and workmanship.

Third. How long previous to the 14th day of April, A. D. 1858, did you last see the said machinery, boilers, and specially the steam drum-head? In what state or condition were they at the time? How many trips had the boat made at the time?

Fourth. Are you acquainted with T. R. Packard and A. R. Meann? How long have you known them? What is their employment, and how long have they been engaged in the same? What are their standing, reputation and capacity in their business?

Fifth. Have you or not ever manufactured steam drum-heads similar to the one on the New Falls City, for other boats? If yea, state for how long, and what boats. State fully; are not similar drum-heads used on the Memphis and New Orleans packets? If yea, on what boats. Are or not such drum-heads as good as any others? State whether you ever knew or heard of a drum-head similar to this blowing out as in this instance?

Sixth. State further and fully anything that you may know going to show the soundness and fitness of the machinery of the New Falls City, and particularly as to the steam drum-head, which latter it is alleged by plaintiff was unfit, unsound, and of bad construction and workmanship.

BONFORD, SINGLETON & CLACK,
Def'ts' Att'ys.

John Renfrew, who being first duly sworn on the Holy Evangelists on this the 28th day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the first interrogatory he saith. I reside in St. Louis City, Missouri. My business is that of superintending the building of engines and machinery, and have been engaged in the same for upwards of twenty-two years in Pittsburg and St. Louis cities, and in manufactories where there were employed from 40 to 280 hands.

To the second interrogatory he saith. I have seen the steamer New Falls City. I do not know where her hull and machinery was built. The company of which I am a member put up the boilers and their attachments, during the latter part of the fall or early part of the winter 1857. I was on the boat very often while the boilers and machinery were being put up. I do not recollect now of examining the heads of the steam-drum particularly, but it is our regular practice when a casting comes out of the foundry, if it is a boiler-head or

a steam-drum, for the foremen of the different departments, say foundry furnishing shop and boiler yard, besides Mr. Crozier and myself, to examine them minutely, and if we can detect any appearances of unsoundness about them to break them up and make new ones in their place. The drum-heads were made of cast-iron; and the pig iron from which they were made was of the best quality, as we never buy any except what is sold for the best article. The thickness of the iron was one and one-quarter inches diameter, of inside of steam drum 29⅞ inches diameter, of inside of rim inside of head 27⅜ inches. The workmen were careful and competent. The materials I believe were procured from the Missouri iron mountains and from Tennessee, and that mixture of iron is considered to be of the best quality for strength. If there had been any defects visible on the outside surface they would readily have been seen, and if there were any inside of the outside surface which could not have been detected by the eye, the hydraulic pressure to which they are subjected by the government inspector (whose duty it is to test all boilers and consequently the steam-drums, before a boat can get license to run) ought to show it at once. As the pressure got up on them by steam is never allowed to be so great as the local inspectors subject them to, and as iron increases in tenacity according to the degrees of temperature within the limits which the law allows for boats to carry steam, it ought to be stronger with the pressure of steam of the same force than when tested with water. The style and character of the workmanship was good. I do not know that said work was ever examined by any person engaged in the manufacture of engines and boilers, outside of our firm and shop, but I presume it was from the fact that the New Falls City, whilst the work on her was progressing, and afterwards, was visited frequently by those engaged in that business.

To the 3d interrogatory he saith. I do not know how long it was previous to the 14 April, 1858, when I last saw the steam-drum and boilers of the New Falls City, neither do I know how many trips she had made.

To the fourth interrogatory he saith. I have been acquainted with Mr. Packard for a number of years, cannot state how many; I do not recollect how long I have been acquainted with Mr. Mann, but for a number of years. The reputation of Mr. Packard as an engineer is good; I do not recollect of ever having heard Mr. Mann's qualities as an engineer spoken of.

To the fifth interrogatory he saith. We have manufactured a great many steam drum-heads of the same material, I do not recollect of ever using any other kind—I do not recollect how long, but ever since steam drum-heads have been used on boats. The steamer Belfast, of the Memphis and New Orleans packet line, has or had heads cast from the same pattern as those that were made for the New Falls City, and they were still on her the last time I saw her, and have never heard of their being taken out nor have I ever heard of

rials procured, and their quality, and whether they were good and such as were safe and prudent to use. Could any defects or flaw have been detected before and after they were made use of? What was the style and character of the workmanship? Did said work ever undergo an examination by competent persons engaged in the manufacture of steam engines, steamboat boilers, or other machinery belonging to steam vessels? If yea, state the names, the place and time of the examination, and their opinion as to the materials and workmanship.

Third. How long previous to the 14th day of April, A. D. 1858, did you last see the said machinery, boilers, and specially the steam drum-head? In what state or condition were they at the time? How many trips had the boat made at the time?

Fourth. Are you acquainted with T. R. Packard and A. R. Meann? How long have you known them? What is their employment, and how long have they been engaged in the same? What are their standing, reputation and capacity in their business?

Fifth. Have you or not ever manufactured steam drum-heads similar to the one on the New Falls City, for other boats? If yea, state for how long, and what boats. State fully; are not similar drum-heads used on the Memphis and New Orleans packets? If yea, on what boats. Are or not such drum-heads as good as any others? State whether you ever knew or heard of a drum-head similar to this blowing out as in this instance?

Sixth. State further and fully anything that you may know going to show the soundness and fitness of the machinery of the New Falls City, and particularly as to the steam drum-head, which latter it is alleged by plaintiff was unfit, unsound, and of bad construction and workmanship.

BONFORD, SINGLETON & CLACK,
Def'ts' Att'ys.

John Renfrew, who being first duly sworn on the Holy Evangelists on this the 28th day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the first interrogatory he saith. I reside in St. Louis City, Missouri. My business is that of superintending the building of engines and machinery, and have been engaged in the same for upwards of twenty-two years in Pittsburg and St. Louis cities, and in manufactories where there were employed from 40 to 280 hands.

To the second interrogatory he saith. I have seen the steamer New Falls City. I do not know where her hull and machinery was built. The company of which I am a member put up the boilers and their attachments, during the latter part of the fall or early part of the winter 1857. I was on the boat very often while the boilers and machinery were being put up. I do not recollect now of examining the heads of the steam-drum particularly, but it is our regular practice when a casting comes out of the foundry, if it is a boiler-head or

a steam-drum, for the foremen of the different departments, say foundry furnishing shop and boiler yard, besides Mr. Crozier and myself, to examine them minutely, and if we can detect any appearances of unsoundness about them to break them up and make new ones in their place. The drum-heads were made of cast-iron; and the pig iron from which they were made was of the best quality, as we never buy any except what is sold for the best article. The thickness of the iron was one and one-quarter inches diameter, of inside of steam drum 29$\frac{7}{8}$ inches diameter, of inside of rim inside of head 27$\frac{3}{8}$ inches. The workmen were careful and competent. The materials I believe were procured from the Missouri iron mountains and from Tennessee, and that mixture of iron is considered to be of the best quality for strength. If there had been any defects visible on the outside surface they would readily have been seen, and if there were any inside of the outside surface which could not have been detected by the eye, the hydraulic pressure to which they are subjected by the government inspector (whose duty it is to test all boilers and consequently the steam-drums, before a boat can get license to run) ought to show it at once. As the pressure got up on them by steam is never allowed to be so great as the local inspectors subject them to, and as iron increases in tenacity according to the degrees of temperature within the limits which the law allows for boats to carry steam, it ought to be stronger with the pressure of steam of the same force than when tested with water. The style and character of the workmanship was good. I do not know that said work was ever examined by any person engaged in the manufacture of engines and boilers, outside of our firm and shop, but I presume it was from the fact that the New Falls City, whilst the work on her was progressing, and afterwards, was visited frequently by those engaged in that business.

To the 3d interrogatory he saith. I do not know how long it was previous to the 14 April, 1858, when I last saw the steam-drum and boilers of the New Falls City, neither do I know how many trips she had made.

To the fourth interrogatory he saith. I have been acquainted with Mr. Packard for a number of years, cannot state how many; I do not recollect how long I have been acquainted with Mr. Mann, but for a number of years. The reputation of Mr. Packard as an engineer is good; I do not recollect of ever having heard Mr. Mann's qualities as an engineer spoken of.

To the fifth interrogatory he saith. We have manufactured a great many steam drum-heads of the same material, I do not recollect of ever using any other kind—I do not recollect how long, but ever since steam drum-heads have been used on boats. The steamer Belfast, of the Memphis and New Orleans packet line, has or had heads cast from the same pattern as those that were made for the New Falls City, and they were still on her the last time I saw her, and have never heard of their being taken out nor have I ever heard of

any accident having occurred to them. I have always considered cast-iron drum-heads as good as any others. I have never known or heard of a steam drum-head blowing out as the one on the New Falls City did; it is the first that has ever come to my knowledge.

To the sixth interrogatory he saith. I saw a piece of the broken head on the steamer Falls City after the accident, and consider it to be a good casting. In all my experience of upwards of twenty years that I have been engaged in superintending work about foundries, where castings are broken up to be melted over again, I have never seen a surface of the same extent as the fractured part of this drum-head which did not exhibit to the eye some appearance of dirt or air-cells, and in castings which had been put to a severer test of steam pressure than any that the law will allow of now. Iron may be weakened by hydraulic pressure, or by constant strain, or by constant use; I have known of wrought-iron steam drum-heads giving way, but never heard of cast-iron drum-heads giving way or blowing out before this one on the New Falls City.

JOHN RENFREW.

Sworn to and subscribed before me this the 28 day of March, in the year 1859.

Witness my hand and seal.

[SEAL.] EDW. W. SHANDS, Commissioner.

Alexander Crozier, who, being first duly sworn on the Holy Evangelists, on this the 28 day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the first interrogatory, he saith. I reside in St. Louis City, Missouri; I am a boiler-maker, and have worked at the business twenty-one years, and have had the superintendence of from ten to thirty men.

To the second interrogatory, he saith. I have seen the steamer New Falls City; I do not know where said boat or her machinery was built; I put one new boiler in her in December, 1857; I examined the boilers of said boat before and at the time said boat commenced running at the port of St. Louis, in the month of December, 1857, and January, 1858. The boilers, steam drum-head, and machinery of said boat were sound and fit for use; I superintended the putting up of the boilers and steam drum-head of the New Falls City, and they were submitted to and approved by the Local (U. S.) Inspector at St. Louis; the steam drum-heads were made of the best quality of cast-iron, 1¼ inches thick, 30 inches in diameter; the workmen were competent and careful; the materials were of a mixture of Tennessee and Missouri iron of the best quality; the workmanship was of the best style and character; myself and Mr. McCord, the Local Inspector at St. Louis during the progress of the work and after it was finished, examined the work; and

Mr. McCord as well as myself considered the workmanship and materials to be of the best kind and quality.

To the third interrogatory, he saith. I cannot recollect the date when I last saw said boat or machinery; I saw her almost every time she arrived in the port of St. Louis, but made no examination of the boilers and machinery after she came out of our hands and commenced running.

To the fourth interrogatory, he saith. I am acquainted with both T. R. Packard and A. R. Mann; they are steamboat engineers; I have known T. R. Packard over five years, and A. R. Mann over a year. They have the reputation of being first-rate engineers.

To the fifth interrogatory, he saith. We have manufactured steam drum-heads similar to those on the New Falls City for other boats for twenty years; I cannot recollect the names of the boats; the steamer Belfast, a Memphis and New Orleans packet, has steam drum-heads manufactured from the same pattern as those on the New Falls City; they are as good as any others; I never knew of a drum-head similar to this blowing out as in this instance.

To the sixth interrogatory, he saith. The boilers were entirely safe, and the steam drum was new, and made in the most approved manner, according to my experience in business; I was authorized by the owners of the New Falls City to spare no expense, in order that the boilers and attachments might be perfectly safe.

ALEXANDER CROZIER.

Sworn to and subscribed before me this, the 28 day of March, in the year 1859.

Witness my hand and seal.

[SEAL.] EDW. W. SHANDS, Commissioner.

JAMES SHARRON
vs.
St'mb't FALLS CITY.

United States Circuit Court in and for the Eastern District of Louisiana.

Interrogatories to be propounded to T. R. Packard, Augustus R. Mann, and others, witnesses, on the part of the defendants in the above entitled suit, whose answers thereto are to be read as evidence on the part of said defendants:—

First. Were you on board of the steamboat New Falls City on the 14 day of April, A. D. 1858, at the time the starboard head was blown out of the steam-drum? If yea, in what capacity?

Second. Where did said accident happen? On what part of the boat were you at the time? At what rate of speed was the boat progressing? Was it or not the usual speed of the boat, at which she usually ran, at the place of explosion, and at the time of day? At what distance from the nearer shore was she running? Was she running in a due course? What pressure of steam was she carrying

at and before the time of the explosion? How many pounds of steam had she on by the government valve at the time? Was there a line attached to the government valve, and for what purpose? Was there ever anything suspended on it? Where valves raise from the pressure of steam, do they increase their surface, and blow off, at a less pressure than the weight calls for, and was the line attached simply that the valve might be reseated without having the trouble to get upon the boilers? In what condition was the steam gauge at the time? Did it point truly the amount of steam? In what condition were the machinery and boilers of the boat at the time of the explosion? Was the New Falls City a new boat? At what time was she built, and how many trips from St. Louis to New Orleans had she run? Was she ever inspected by the government officers? If yea, at what time, and were you present? What was your opinion as to the soundness of her boilers and machinery, and specially of her drumhead? At the time of the explosion, did you have on the boat the same machinery, boilers, and especially the same drumhead as when they passed inspection by the United States government officers? Did you take care of them from the time of inspection up to the time of the explosion? In what manner were they taken care of? Was it possible to detect any flaw of any kind in the drumhead previous to the bursting of the starboard-head out of the steam-drum? Was there anything to indicate any unsoundness in the materials or otherwise? How was the bursting caused?

Third. At the time of the explosion was there a steamboat near the New Falls City? If yea, what was her name, and the distance that separated you? What was this boat doing at the time—was she stationary or moving? Were you passing her at the usual place and distance? If you say she had landed at Lafayette, state how she landed there, if she started out, in what manner was her course, and whether it was done according to the rules of navigation recognized on the river. State the position of the two boats at the instant of the explosion. Did any of the steam that escaped from the New Falls City reach the steamboat John Simonds? If yea, what portions of it? Was anything ejected from off the New Falls City on to the John Simonds? If yea, what portions of the Simonds was struck, if any? Was the cook house struck or injured? Give a statement of the effects of the accident in this respect.

Fourth. Were you, on the 14th day of April, 1858, a duly licensed engineer? If yea, are you still duly licensed and acting as such, and in whose employment are you now? How long have you been acting as engineer on steamboats?

Fifth. How much steam were you allowed to carry to the square inch, by the United States Government officers?

Sixth. What was the height of the steam drum of the New Falls City from her main deck, and what was the height of the same relatively from the main deck of the Simonds at the time of the explosion? And how many feet above the head of a man standing on

the lower deck of the Simonds, did the steam and wood from the New Falls City strike the Simonds?

Seventh. Did, or not, any wood or other substance from the New Falls City strike forward of the wheel of the Simonds? What part above of the Simonds, with reference to her wheel, was struck by the wood and other substances thrown from the New Falls City?

Eighth. Could, or not, anything or any person on the main deck of the Simonds have been injured by the steam from the Falls City? Could, or not, the steam have been blown downwards?

Ninth. By the time the steam-drum came to a point forward of the wheel of the Simonds, could, or not, any person standing on the main deck of the Simonds forward of the wheel, been injured by steam or anything else from the Falls City?

Tenth. What was the speed of the Falls City at the time of the explosion? Was it ordinary, or otherwise?

Eleventh. Who was in command of the New Falls City at the time of the explosion? Did, or not, said person prior to, or at the time of said explosion, interfere in any way with the regulation of the steam of the boat? Or did he at any time do so?

Twelfth. State fully anything that you may know, in addition to what you have answered, that may benefit defendants. Pl'ff alleges that he was injured by the explosion on the New Falls City, and alleges that the explosion resulted from the deficiency of her machinery, and from the misconduct and carelessness of her officers. Do you know how plaintiff was injured, and where he was at the time of the accident? State fully.

BONFORD, SINGLETON & CLACK,
Def'ts' Attorneys.

T. A. Packard, who being first duly sworn on the Holy Evangelists, on this the 26th day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the 1st interrogatory, he saith. I was on board of said steamboat at that time, in the capacity of first engineer.

To the 2d interrogatory, he saith. Said accident happened at the foot of Washington Street, Lafayette, Louisiana; I was on the forward part of the boat at the time; we were going at the usual speed of the boat at that time and place; she was running from 250 to 300 feet from the nearest shore, in a due course; she was carrying one hundred and seventeen pounds of steam at and just before the explosion; she had one hundred and seventeen pounds by the government valve; there was a line attached to the government valve, for the purpose of seating the valve when raised, as the valve will remain up after having gotten below the pressure allowed by government; there was nothing suspended on this line, or to it; valves increase their surface when raised, and blow off at a less pressure than the weights call for; the line was only used as a convenience to save the trouble of getting on the boilers to seat the valve; the steam-gauge

at and before the time of the explosion? How many pounds of steam had she on by the government valve at the time? Was there a line attached to the government valve, and for what purpose? Was there ever anything suspended on it? Where valves raise from the pressure of steam, do they increase their surface, and blow off, at a less pressure than the weight calls for, and was the line attached simply that the valve might be reseated without having the trouble to get upon the boilers? In what condition was the steam gauge at the time? Did it point truly the amount of steam? In what condition were the machinery and boilers of the boat at the time of the explosion? Was the New Falls City a new boat? At what time was she built, and how many trips from St. Louis to New Orleans had she run? Was she ever inspected by the government officers? If yea, at what time, and were you present? What was your opinion as to the soundness of her boilers and machinery, and specially of her drumhead? At the time of the explosion, did you have on the boat the same machinery, boilers, and especially the same drumhead as when they passed inspection by the United States government officers? Did you take care of them from the time of inspection up to the time of the explosion? In what manner were they taken care of? Was it possible to detect any flaw of any kind in the drumhead previous to the bursting of the starboard-head out of the steam-drum? Was there anything to indicate any unsoundness in the materials or otherwise? How was the bursting caused?

Third. At the time of the explosion was there a steamboat near the New Falls City? If yea, what was her name, and the distance that separated you? What was this boat doing at the time—was she stationary or moving? Were you passing her at the usual place and distance? If you say she had landed at Lafayette, state how she landed there, if she started out, in what manner was her course, and whether it was done according to the rules of navigation recognized on the river. State the position of the two boats at the instant of the explosion. Did any of the steam that escaped from the New Falls City reach the steamboat John Simonds? If yea, what portions of it? Was anything ejected from off the New Falls City on to the John Simonds? If yea, what portions of the Simonds was struck, if any? Was the cook house struck or injured? Give a statement of the effects of the accident in this respect.

Fourth. Were you, on the 14th day of April, 1858, a duly licensed engineer? If yea, are you still duly licensed and acting as such, and in whose employment are you now? How long have you been acting as engineer on steamboats?

Fifth. How much steam were you allowed to carry to the square inch, by the United States Government officers?

Sixth. What was the height of the steam drum of the New Falls City from her main deck, and what was the height of the same relatively from the main deck of the Simonds at the time of the explosion? And how many feet above the head of a man standing on

the lower deck of the Simonds, did the steam and wood from the New Falls City strike the Simonds?

Seventh. Did, or not, any wood or other substance from the New Falls City strike forward of the wheel of the Simonds? What part above of the Simonds, with reference to her wheel, was struck by the wood and other substances thrown from the New Falls City?

Eighth. Could, or not, anything or any person on the main deck of the Simonds have been injured by the steam from the Falls City? Could, or not, the steam have been blown downwards?

Ninth. By the time the steam-drum came to a point forward of the wheel of the Simonds, could, or not, any person standing on the main deck of the Simonds forward of the wheel, been injured by steam or anything else from the Falls City?

Tenth. What was the speed of the Falls City at the time of the explosion? Was it ordinary, or otherwise?

Eleventh. Who was in command of the New Falls City at the time of the explosion? Did, or not, said person prior to, or at the time of said explosion, interfere in any way with the regulation of the steam of the boat? Or did he at any time do so?

Twelfth. State fully anything that you may know, in addition to what you have answered, that may benefit defendants. Pl'ff alleges that he was injured by the explosion on the New Falls City, and alleges that the explosion resulted from the deficiency of her machinery, and from the misconduct and carelessness of her officers. Do you know how plaintiff was injured, and where he was at the time of the accident? State fully.

BONFORD, SINGLETON & CLACK,
Def'ts' Attorneys.

T. A. Packard, who being first duly sworn on the Holy Evangelists, on this the 26th day of March, in the year of our Lord 1859, doth depose and say as follows:—

To the 1st interrogatory, he saith. I was on board of said steamboat at that time, in the capacity of first engineer.

To the 2d interrogatory, he saith. Said accident happened at the foot of Washington Street, Lafayette, Louisiana; I was on the forward part of the boat at the time; we were going at the usual speed of the boat at that time and place; she was running from 250 to 300 feet from the nearest shore, in a due course; she was carrying one hundred and seventeen pounds of steam at and just before the explosion; she had one hundred and seventeen pounds by the government valve; there was a line attached to the government valve, for the purpose of seating the valve when raised, as the valve will remain up after having gotten below the pressure allowed by government; there was nothing suspended on this line, or to it; valves increase their surface when raised, and blow off at a less pressure than the weights call for; the line was only used as a convenience to save the trouble of getting on the boilers to seat the valve; the steam-gauge

was in good condition, and pointed as truly the amount of pressure as any kind of gauges do; we depend entirely upon the government valve; the machinery and boilers were in good condition at the time of the explosion; she was a new boat, built during the winter of 1858, and had made five trips up to this time; she was inspected by the United States Government Officers at St. Louis, on the 12th day of January, 1858; I was present at this inspection; my opinion was that her machinery and steam-drum were safe and fit for use; the machinery and steam-drum were the same at the time of the explosion, as that passed by the government officers when inspected; I took good care of them from the time of inspection to the time of explosion; they were cared for by careful examination, preventing friction, wear, &c.; it was not possible to detect any flaw or crack in the drumhead, previous to its bursting; there was nothing to indicate any unsoundness in the materials.

To the 3d interrogatory he saith: The steamer John Simonds was near the New Falls City; from thirty to forty feet from her. She was laying to on the outside of a ferry-boat at the foot of Washington Street. I do not know how she landed; I did not see her land. She had not left the ferry-boat. It was at an unusual place for boats to land. The steam-drum of the New Falls City was, when the explosion took place, at a point behind the Simonds, when some twenty feet or more. Part of the steam which escaped from the New Falls City did reach the steamer John Simonds at a point aft of the wheel-house. The fragments of the drum-head, and a portion of the deck of the Falls City and some wood was ejected from off the New Falls City on the Jno. Simonds and struck the latter aft of the wheel-house, and the missiles were found there; I cannot say whether or not the cook-house was struck or injured; I did not see that it was injured.

To the 4th interrogatory he saith. I was at that time and am still a duly licensed engineer, and acting as such; I am now engineer on the steamer Florida; I have been acting as engineer on steamboats for twenty-six years.

To the 5th interrogatory he saith. One hundred and seventeen pounds to the square inch.

To the 6th interrogatory he saith. About fourteen feet from the main deck, the same as it was from the Simonds' main deck; about seven feet from the top of a man's head, standing on the lower deck of the Simonds.

To the 7th interrogatory he saith. There was not any hard substance ejected from the New Falls City forward of the wheel of the John Simonds, the latter boat was injured aft of the wheel only, by such substances.

To the 8th interrogatory he saith. A person standing on the main deck of the Simonds, forward of the wheel, could not have been injured; the steam could not have been blown downwards.

To the 9th interrogatory he saith. No, as I have before stated in answer to interrogatory eighth.

To the 10th interrogatory he saith. Her speed was at the ordinary rate.

To the 11th interrogatory he saith. William H. Scudder was in command at the time; he did not interfere with the machinery of the boat, nor give any orders in relation thereto prior to the accident, nor at any other time while I had charge of the boat and machinery as engineer; nor did he in anywise interfere with my orders given to my subordinates.

To the 12th interrogatory he saith. My experience for twenty-six years, as engineer, satisfied me that cast-iron steam drum-heads are practicable; I have never heard or known of any accident resulting from their use, excepting the one on the New Falls City, and have never seen a steam drum-head with wrought-iron heads rusted; I had those put on the New Falls City; I am satisfied that the accident was beyond the control of any man; I examined the castings in the steam drum-heads before they were used, and I could not discover any defects. T. A. PACKARD.

Sworn to and subscribed before me, this the 26th day of March, in the year 1859. Witness my hand and seal.

[SEAL.] EDW. W. SHANDS, Commissioner.

JAMES SHARRON vs. Stbt. FALLS CITY. } No.

United States Circuit Court of the United States in and for the Eastern District of Louisiana.

Interrogatories to be propounded to H. Singleton and Jas. H. McCord and others, now or formerly United States inspectors of boilers and other machinery of steamboats, at the port of St. Louis and State of Missouri.

First. Where do you reside? what is your occupation? If you say that you are or have been inspector of boilers and other machinery of boats, under an act of Congress, state where and for what length of time?

Second. Did you ever inspect the boilers and machinery of the steamboat New Falls City, a boat running between the ports of St. Louis and New Orleans? If yea, at what time and place? Did you issue a certificate of said inspection? annex a duly certified copy of the certificate of inspection which you may have issued; have you furnished a full and true copy of the same?

Third. Are you acquainted with Renfrew, Crozier, and Pomeroy, builders and manufacturers of engines and other machinery of steamboats? If yea, what is their general reputation and standing as builders and manufacturers of engines and other machinery of steamboats with regard to their competency, workmanship, skill, attention

and prudence? what kind of workmen have they always employed? what is your opinion of these manufacturers of machinery for steamboats, with regard to the same foregoing matters inquired of in this interrogatory?

Fourth. Are your acquainted with T. R. Packard and A. R. Mann? how long have you known them? what is their employment, and how long have they been engaged in the same? Are they licensed? What are their standing, reputation, and capacity in their business?

Fifth. State whether or not the drum-head of the New Falls City prior to the late explosion, was good or not. State whether similar drum-heads, made of cast-iron, are used by boats running out of St. Louis. State whether or not you ever knew or heard of a drum-head similar to this blowing out as in this instance.

Sixth. Do you know the firm of Gaty, McCune & Co., of St. Louis? If yea, what are their standing, reputation, and capacity? What is their business, and how long and to what extent have they been engaged in the same?

BONFORD, SINGLETON, & CLACK,
For Defendants.

The plaintiff reserves all and all matter of exceptions to the interrogatories propounded by the defendants to the witnesses, and to the competency of the witnesses themselves, and all other exceptions not specially set forth. He therefore declines propounding any cross-interrogatories.—N. Orleans, Dec'b'r 22, 1858.

GEO. L. BRIGHT, Counsel for Pl'ff.

Exhibit "C." Referred to in deposition of Jas. H. McCord.

By authority of the United States of America.

(First Inspection.)

Inspectors' Certificate, No. 265. Steamer New Falls City.

State of Missouri, District of St. Louis, ss.

Application having been made in writing to the subscribers, inspectors for said district, to inspect the steamer New Falls City, of St. Louis, in the State of Missouri, whereof William H. Scudder, John J. Roe, and William J. Lewis, are owners, and J. E. Montgomery is master, we having performed that service, now, on this 12th day of January, A. D. 1858, do certify that she was built at St. Louis, in the State of Missouri, in the year 1858; is of $880\frac{44}{95}$ tons burthen, and is in all respects staunch, sea-worthy, and in good condition for navigation, having suitable means for escape from the main to the upper deck, in case of accident; that she is provided with 64 staterooms, with two berths to each; has 128 permanent cabin, and extra or movable cabin berths, and has suitable accommodation for 128 cabin passengers. That she has also berths suitable for deck or other class passengers to accommodate 400 persons.

That she is a steamer sailing to and from inland ports, a distance of five hundred miles and upwards, and is permitted to carry 400 deck passengers, except when making voyages between St. Louis and New Orleans, when the following rules shall govern, to wit:—

(A berth, bunk or hammock, shall have space of at least 6 feet long, 22 inches wide, and two feet high, clear of obstruction, and easy of access for each passenger. Children one year old, or less, shall not be included in the calculation. Two children, whose united ages shall not exceed 16 years, shall be counted as one passenger. When there are four or more tiers of berths in height, 10 square feet of deck room shall be allowed for each passenger. When there are three tiers of berths in height, 12 square feet for each passenger. When there are two tiers of berths in height, 14 square feet for each passenger. When there shall be but one tier of berths in height, or where there are no berths, 15 square feet shall be allowed for each passenger. These spaces shall be calculated only in suitably enclosed deck room, which shall be properly warmed in cold weather, and properly ventilated at all times.)

That she is provided with 6 high-pressure boilers, 28 feet long, and 46 inches in diameter, of cylindrical form, of $\frac{4}{48}$ inch in thickness, with $\frac{5}{11}$ inch return flues in each, constructed of iron of $\frac{1}{4}$ of an inch in thickness, and made in the year 1853 and 1858; that they are in all respects conformable to law. That each boiler has been subjected to a hydrostatic pressure of $175\frac{75}{100}$ pounds to the square inch; that the maximum working power allowed was $117\frac{17}{100}$ determined by the rule prescribed by the act of August 30th, 1852; boilers in this steamer were built in 1853 and 1858. That there are three safety-valves with $24\frac{87}{100}$ square inches area; that the load prescribed to each is such as to allow but $117\frac{17}{100}$ pounds pressure per square inch, the whole left in charge of the engineer, and withdrawn from interference of the officers of the boat, except the engineer. Has 2 supply pipes of 4 inches each in diameter, and has sufficient means to keep the water at all times and under all circumstances, up to four inches over the flues. Has 2 steam-pipes of $7\frac{1}{2}$ inches in diameter each. Has high-pressure engines with cylinders 30 inches in diameter each, and 9 feet stroke. Has 2 forcing pumps of 6 inches plunge and 18 inches stroke each, worked by an auxiliary engine. Has two water gauges and 1 steam gauge, all properly secured. Uses the alloyed metal, with plugs in the flue which fuses at 135 pounds pressure. Has three fire forcing pumps of 8 inches stroke each, and 5 & 4 inches in diameter of plunge, one which can be worked by steam. Has 200 feet of hose, 26 buckets, and 6 axes. Has a life-boat in good order, and yawl. Has X life preservers and stage floats, containing 500 superficial feet. Has additional steering apparatus.

We further certify that the equipments of the vessel throughout, including pipes, pumps, and other means to keep the water up to the point aforesaid, hose, boats, life-preservers, spark-arresters,

blocks, rigging, anchors, and other things, are in conformity with the provisions of law; and that we declare it to be our liberal conviction, founded upon the inspection we have made, that the vessel may be employed as a steamer upon the waters herein specified, without peril to life from imperfection of form, materials, workmanship, or arrangement of the several parts, or from age or use; and we further certify that the said vessel is to run within the following limits, to wit:—

From the port of St. Louis to the port of the Ohio and Mississippi Rivers, touching at the intermediate places, and back; and also to other ports, and on waters usually navigated by boats of the same class.

(Signed) JAMES H. McCORD, [SEAL.]
" H. SINGLETON, [SEAL.]

State of Missouri, District of St. Louis.

Personally appeared before me, the undersigned notary public in and for said district, James H. McCord and H. Singleton, duly appointed inspectors of hulls and steam boilers for the district of St. Louis, and made solemn oath that the annexed certificate of inspection is just and true.

Sworn and subscribed before me this thirteenth day of January, A. D. 1858.

Witness my hand and seal.

(Signed) EDW. W. SHANDS, [L. S.]
Notary Public.

I hereby certify that the above is a true copy of the original on file in this office. W. A. LINN, Surveyor.
By JOHN SUMSON, Deputy.

Port of St. Louis, 19th day of February, 1859.

James H. McCord, who, being first duly sworn on the Holy Evangelists, on this, the 28th day of March, A. D. 1859, doth depose and say as follows:—

To the first interrogatory, he saith. I reside in St. Louis City, Missouri; I am inspector of steamboat boilers, hulls, and machinery at St. Louis City, Mo., under an act of Congress approved August 30th, 1852, and have been acting as such since December, 1852.

To the second interrogatory, he saith. I did inspect the boilers and machinery of the New Falls City in the month of January, 1858, at the port of St. Louis, and with Mr. H. Singleton, who assisted in that inspection as Local Inspector, did issue a certificate of inspection, a full and true copy of which is hereto attached and marked "C," and made part of my answer to this interrogatory.

To the third interrogatory, he saith. I am acquainted with said firm of Renfrew, Crozier & Pomeroy; their general reputation and

standing as builders and manufacturers of engines and other machinery of steamboats, with regard to their competency, workmanship, skill, attention, and prudence, is good, equal to any in Saint Louis City or in the West.

To the fourth interrogatory, he saith. I am acquainted with T. R. Packard and A. R. Mann; have known T. R. Packard about ten years, and A. R. Mann about 4 years. They are both licensed engineers, and have been engaged as such ever since I knew them. Their standing, reputation, and capacity in their business is equal to that of any engineers on the western rivers.

To the fifth interrogatory, he saith. The drum-head of said steamer New Falls City, prior to said disaster, was to the best of my knowledge and belief good; drum-heads of the same kind are now being used by steamers running from this port. I have never knew or heard of a drum-head of a similar kind blowing out before as in this instance.

To the sixth interrogatory, he saith. I do know the firm of Gaty, McCune & Co., St. Louis, Mo. Their standing, reputation and capacity is excellent, equal to any establishment of the kind in the West. Their business is that of manufacturers of boilers and machinery for steamboats, &c. They have, to my knowledge, been engaged in this business twenty years, and have built more steamboat machinery than any other establishment in St. Louis City.

JAMES H. McCORD.

Sworn to and subscribed before me, this, the 28th March, A. D. 1859.

Witness my hand and seal.

[SEAL.] EDW. W. SHANDS,
Commissioner.

State of Missouri, City and County of St Louis, ss.

I, Edw. W. Shands, commissioner as aforesaid, do hereby certify, that I caused Isaac C. Cable, W. W. Beebe, Sam'l Gaty, Amos Howe, James Collins, T. A. Packard, John Renfrew, Alexander Crozier, and James H. McCord, witnesses hereinbefore named and examined, to appear before me, at the place and at the times hereinbefore named, and after publicly and solemnly swearing each separately to tell the truth, the whole truth, and nothing but the truth, in answer to the annexed interrogatories, I then and there proceeded to examine each separately by propounding to him the said direct interrogatories, and reducing in my presence and that of the witnesses his answers thereto in writing with my own hand, and I then caused each witness to sign his deposition in my presence as already stated.

In testimony whereof I have hereunto set my hand and official seal, at St. Louis City, Missouri, on this 28th day of March, A. D. 1859. [SEAL.] EDW. W. SHANDS,
Louisiana Commissioner at St Louis, Mo.

Final Judgment.

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana, April Term, 1859.

New Orleans, Tuesday, 3d May, 1859. Court met pursuant to adjournment. Present, Hon. J. A. Campbell, Presiding Judge; Hon. Theo. H. McCaleb, District Judge.

JAMES SHARRON
vs. } 3023.
Steamboat FALLS CITY.

In this case it is ordered that the exceptions filed by the defendants be overruled, and by reason of the verdict of the jury herein rendered, and of the law, and the personal appearance and defence made by James B. Woods, John J. Roe, William H. Scudder, and William J. Lewis, it is ordered, adjudged, and decreed, that the plaintiff, James Sharron, do have and recover of the steamboat Falls City and the owners thereof, to wit: James B. Woods, John J. Roe, William H. Scudder, and William J. Lewis, in solido, the sum of six thousand dollars and costs of suit, with lien and privilege according to law on the said steamboat Falls City.

Judgment rendered 3d May, 1859.

Judgment signed 18th May, 1859.

THEO. H. McCALEB, U. S. Judge.

Rule for New Trial.

Circuit Court of the United States, 5th Circuit and Eastern District of La.

April Term, 1859. New Orleans, Thursday, 5th May, 1859. Court met pursuant to adjournment. Present: Hon. J. A. Campbell, presiding judge; Hon. Theo. H. McCaleb, district judge.

JAMES SHARRON
vs. } 3023.
Steamboat FALLS CITY.

On motion of F. H. Clack, Esq., of counsel for defendants, it is ordered that the plaintiff show cause on Saturday, the 14 instant, at 10 o'clock A. M., why a new trial should not be granted on grounds this day filed.

Grounds for New Trial.

Filed 5th May, 1859.

JAMES SHARRON
vs. } 3023.
Steamboat FALLS CITY.

U. S. Circuit Court, 5th Circuit, East. Dist. of La.

1st. That the verdict and judgment thereon are contrary to law and evidence.

2d. That under the pleadings, no judgment can be rendered against the owners of the New Falls City personally.

3d. That the court erred in overruling the exceptions.

4th. That the court erred in not charging the jury as requested by the defence.

5th. That the charge as given is contrary to law.

6th. That the damages allowed are excessive, punitory, and vindictive.

Trial and Submission of Rule.

Circuit Court of the United States, 5th Circuit and Eastern District of Louisiana.

April Term, 1859. New Orleans, Saturday, 14 May, 1859. Court met pursuant to adjournment. Present: Hon. J. A. Campbell, presiding judge; Hon. Theo. H. McCaleb, district judge.

JAMES SHARRON vs. Stmr. FALLS CITY. } 3023.

The rule herein taken for a new trial came on to be heard, and was argued by Mr. Clack on part of the compl't in rule, and by R. Hunt, Esq., on part of the defendant, and submitted to the court.

Order refusing New Trial.

Circuit Court of the United States, 5th Circuit and Eastern District of Louisiana.

April Term, 1859. New Orleans, Monday, 16th May, 1859. Court met pursuant to adjournment. Present: Hon. J. A. Campbell, presiding judge; Hon. Theo. H. McCaleb, district judge.

JAMES SHARRON vs. Stmr. FALLS CITY. } 3023.

The court having considered the application herein made for a new trial, orders that the same be overruled.

Petition for Writ of Error.

Filed 25th May, 1859.

JAMES SHARRON vs. Steamer FALLS CITY. } No. 3023.

The petition of James B. Woods, John J. Roe, William H. Scudder, and William J. Lewis, owners of the Steamer Falls City, respectfully represents that they are aggrieved by the judgment herein rendered against them on the 18th May instant, and that they are advised that there is error therein to their prejudice: Wherefore

they pray, that a writ of error therefrom be allowed them, the same to operate as a supersedeas upon their giving such bond and security as the court may order, and they will ever pray, &c.

BONFORD, SINGLETON & CLACK,
Att'ys for Pet'rs.

Order allowing Writ of Error.

Circuit Court of the United States,
Fifth Circuit and Eastern District of Louisiana.

April Term, 1859. New Orleans, Wednesday, 25th May, 1859.

Court met pursuant to adjournment. Present, Hon. H. McCaleb, District Judge; absent, Hon. J. A. Campbell, Presiding Judge.

JAMES SHARRON
vs.
Steamer FALLS CITY. } 3023.

On motion of P. E. Bonford, Esq., of counsel for defendants, and on filing their petition representing that they are aggrieved by the judgment herein rendered against them, and praying a writ of error therefrom to operate as a supersedeas; it is ordered that the same be allowed as prayed for on said defendants, giving bond conditioned according to law, in the penal sum of nine thousand dollars, with good and solvent sureties thereon.

Bond for Writ of Error.

Filed 26 May, 1859.

Know all men by these presents, that we, James B. Woods, John J. Roe, William H. Scudder, and William J. Lewis, owners of the Steamboat Falls City, as principals, and James J. Bard, Ignatius Caulfield, and Hanibal S. Blood, as sureties, are held and firmly bound unto James Sharron in the full and just sum of nine thousand dollars to be paid to the said James Sharron, his certain attorney, executors, administrators, or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this 26th day of May, in the year of our Lord one thousand eight hundred and fifty-nine.

Whereas, lately, at a Circuit Court of the United States, Fifth Judicial Circuit, holding sessions in and for the Eastern District of Louisiana, in a suit depending in said Circuit Court, wherein the said James Sharron is plaintiff, and the steamboat Falls City is defendant, judgment was rendered against the said James B. Woods, John J. Roe, William H. Scudder, and William J. Lewis, and the steamboat Falls City, and the said James W. Woods, John J. Roe, William H. Scudder, and William J. Lewis, owners of the steamboat Falls City, having obtained a writ of error, and filed a copy thereof in the clerk's office of the said Circuit Court to reverse the

judgment in the aforesaid suit, and a citation directed to the said James Sharron, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next:

Now the condition of the above obligation is such, that if the said John J. Roe, William H. Scudder, James B. Woods, and William J. Lewis, owners as aforesaid, shall prosecute their writ to effect, and answer all damages and costs, if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

JAMES B. WOODS,
JOHN J. ROE,
WILLIAM H. SCUDDER,
WILLIAM J. LEWIS,
Owners of the Falls City.

By BONFORD, SINGLETON & CLACK,
their Attorneys.

H. S. BLOOD,
J. CAULFIELD,
JAS. J. BARD.

Sealed and delivered in presence of

P. E. BONFORD.

Approved, THEO. H. McCALEB, U. S. Judge.

Circuit Court of the United States, 5th Circuit and Eastern District of Louisiana. Clerk's office.

I certify that the foregoing one hundred and sixty-three pages contain and form a full, true, complete and perfect transcript of the record and proceedings had in the case of James Sharron *vs.* The steamboat Falls City, No. 3023 of the docket of the said court.

Witness my hand and the seal of the said court, at the city of New Orleans, this 21 October, 1859.

[SEAL.] J. W. GURLEY, Clerk.

United States of America, ss.

The President of the United States, to the Honorable the Judges of the Circuit Court of the United States in and for the Fifth Circuit, and holding sessions for the Eastern District of Louisiana, greeting:—

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, before you, or one of you, between James Sharron and James B. Woods, John J. Roe, William H. Scudder and William J. Lewis, owners of the steamboat Falls City, a manifest error hath happened, to the great damage of the said James B. Woods, John J. Roe, William H. Scudder and William J. Lewis, owners of the steamboat Falls City, as by their complaint appears:

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in

this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this 26th of May, in the year of our Lord one thousand eight hundred and fifty-nine.

J. W. GURLEY,
Clerk of the United States Circuit Court
for Eastern District of Louisiana.

Endorsed: United States Circuit Court, No. 3023, James Sharron *vs.* Steamer Falls City. Writ of Error. Filed 26 May, 1859. J. W. Gurley, Clerk.

The United States of America.

The President of the United States, to James Sharron, greeting:—

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein James B. Woods, John J. Roe, William H. Scudder and William J. Lewis, owners of the steamboat Falls City, are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 26th day of May, in the year of our Lord one thousand eight hundred and fifty-nine.

THEO. H. McCALEB, U. S. Judge.

Endorsed: United States Circuit Court, No. 3023, James Sharron *vs.* Steamer Falls City. Citation in Error. Marshal's Return. Rec'd May 26th, 1859, and on the same day served copy of the within citation in error on James Sharron, by handing the same to R. Haws, Esq., Attorney of Record for said James Sharron, in person, in the city of New Orleans. Returned May 26 '59. Chas. Catoir, D'y M.

Filed 23d November, 1859.